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The Perfect

STATES-MAN,

OR,

Minister of State:

Wherein are briefly set forth

The true *Nature* of the *Subject*,
The *Endowments* inherent to His *Person*,
The *Method* of his *Election*, *Institution*, & *Reception*,
The *Object* of this *Office*:

DISTINGUISHED

Under such *Principles*, as are immediately requisite to the Establishment of a

COMMON WELFARE.

WRITTEN

By *LEONARD WILLAN*,

Esquire.

Recte Summum agere,
Recte est Supremum haberi.

In the *SAVOY*,

Printed by *Tho. Newcomb* for the Author,

M.DC.LXVIII.

Printed by T. [illegible] for the Author,

To the Right Honourable,

The LORDS *and* COMMONS,

Assembled in Parliament.

Right Honourable,

THough the Dignity of the *Subject* might require a more eminent *Introductor* to meet a fair Reception from so Honourable a *Convention*; yet since his Loyalty presumeth to prefer *It* to your View, may yield, in his Obscurity, so clear a Proof of his Integrity to the Common *Interest*, as to have been divested of those *Civil* Ornaments, which might have lent more Grace unto the *Presentation*: Vouchsafe to amplifie Your Honour in Your own Benignity, descending to accept a Present of this *Nature* from so mean a Hand: And graciously be pleased to reflect upon the *Enterprise*, as a *Production* took extraction only from the late Disorders of that Irregular *Authority* had usurped *Yours*: Under Disguise of faithful *Patriots*, in Persuit soly of the *Publick Good*; and but designed (in this *Model* of our *Civil Welfare*) to fore-shew (before the Issue had disclos'd the Fallacy) how far

They were remov'd from *Their* pretended *Courſe*, as alſo how unlike *They* were the Perſons they pretended. If the Endeavour reach not the Intention of the *Work*, excuſe the Incapacity derived from *Their* Perſecution, which hath depriv'd the Agent of thoſe *Aids*, were requiſite to ſo Material a *Structure*, which in the *Simitry* and *Uſe* hath alſo loſt the Luſtre of *Her* Native Ornaments, in due Submiſſion to the *Civil* Order, leſt the enlightning of ſome *Principles* might miniſter to the Diſtemper of *Incendiaries*, whoſe innate Ranckor would convert their proper Aliment to Poiſon. The *Breaches* are left obious to the ſhalloweſt Sence, wanting due time to cement the *Abruption*, ſurpriſed in the manner of *Exception*: which *Defects* meeting your Indulgence, may happily lend new Vigour to repair the Errors, the next *Attempt*, in order, ſhould exact the *Exterior* Edifice inherent to the *Civil Fabrick*. Being

Your Honours

Humbly Devoted Servant,

L. WILLAN.

To the READER.

Reader,

WHen thou ſhalt exactly Reflect on the proper uſe of Writing, thou mayeſt admire that any rational Capacity, endued with the ſmalleſt vacancy, ſhould ſuffer their inſtable Thoughts to become ſo impetuouſly agitated, ſcatter'd, and disbanded from their own Direction by exterior Objects, as not to caſt up the reſult of their Diſcourſes in a Method, might form their proper Judgements, and inform Anothers, may poſſibly depend on their Inſtruction: But when thou ſhalt maturely alſo weigh the Conſequents to their Publiſhing, thou mayeſt become yet more aſtoniſhed to finde an Undertaker; ſince neither Satisfaction nor Advantage can Ballance the Adventure, were the Subject never ſo material, or the Structure never ſo Regular: Envy and Ignorance have their inevitable Rancor. Nor can Joves Boſom ſhelter from their Perſecution. As Æſop hath ingeniouſly figured in the Beetles Conteſtation with the Eagle: Which Moral Obſervation may meet a Paralel in the Practice of Club, and Coffee Conſorts, who exerciſe all ſorts of Tyranny on every Civil Tranſaction, Publick, or Private; lend It what Nature, Form, Weight, Iſſue, or Events beſt fits that humour doth miniſter to the Diſtemper of their Paſſion. From whence may be concluded, under how implacable a Configuration, muſt iſſue this Production, eſpecially when Reflection ſhall be made on the improper Conſtitution of this Age, both in Reference to the Nature hereof and the Subject. The Firſt (ſo far removed from the depraved Reliſh of the Time) It hath nor Badge nor Signature of Hudebras, or Don Quixot to warrant a Reception. The latter only but the Object of the vulgar fury, muſt of neceſſity be condemn'd before It is diſtinguiſhed. The Title doth imply no leſs, The Miniſter of State. Yet ſince the Averſion of the Populace is raiſed on the Impropriety of their Miniſtry: And the Impropriety of their Miniſtry conjecturally derived from the Enlargement of their Fortunes. The Perſecution may poſſibly be abated in the Diſcovery of a more hopeful Character, where the very ſhadows of peculiar Intereſt are avoided.

Divers Adherents to a Civil Miniſtry may poſſibly fall under this Diſtinction; but let not him that holds the painted Staff of an Authority, pretend thereon to ſuch a Dignity, leſt he intitle the moſt Infamous to his Aſſociation. There is a vaſt Extent of Latitude in ſence between the Miniſter of State, and the Miniſter to a State. That ſets at Helm, and by his Compaſs ſteers the Civil Bark in Her intended Courſe. This but removes the Rubbiſh might obſtruct it. So likewiſe the Superiour Attribute

meets a Difference *in Distinction. The* General *and the* Special, *The* Publick *and the* Private Minister of State. *The* Special *joyntly hath Adherence only to the Princes* Council. *The* General *likewise to the Peoples* Trust. *The* Publick *by Commission agitates on* Forreign Negotiations. *The* Private *properly is Superintendent to the* Rest. *This* Treatise *pretends only Reference to the* First, *the fury of the* Populace *only to the* Last. *If the* Design *not clearly figureth the Intention of the* Work. *The Incapacity rests only in the* Civil *Infirmity, whose Distemper is yet so sensible, the parts thereof will not endure the handling without the danger of a Rupture: In which Respect, the intended* Proofs *Inherent to the present* Practice *and* Positions, *are become dissected from the Propriety of* This Structure. *If the* Materials *shock, thy Apprehension, know, that the Abstruseness of a* Tongue, *which only is* derivative, *may plausibly assume the Liberty to select borrowed* tearms. *may lend the sense more weight or more propriety, till common usage lend them an Authority. How else should Distinction of the new Fashions be communicable. How new Intelligence become distinguishable. If their Contexture lend the* Style *a seeming singularity, consult thy* Ear *from whose Agreement only they assume their* Order. *The Errors are contracted in Impression distinguisht in their incongruity, be pleas'd to rectifie or to excuse, and accept of the* Work *(though but defective) in favor of the* Object *It pursues, The* Common-Interest: *In whose Reserve the highest Discords meet an Unanimity.* Vale.

L. WILLAN.

THE

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Theſe are the National and Interior *Objects* of our *Miniſter.*

The

THE PERFECT STATES-MAN; OR, Minister of State.

I. *The Definition of the Subject, and the Extent of the whole work.*

HAving propounded the *Subject* of our *Treatise* in the *Title* hereof, to avoid Obscurity; 'twill be necessary to Trace out the Foundation, and draw a Platform of the whole *Work*, ere we lay hand unto the *Structure*. In Order to our Proposition, First to distinguish what a *Minister* of State is; then to consider *Him* in his *Person* and *Endowments*, both *External* and *Internal*, then in *His Office*, and several *Objects* thereof, both *National* and *Foreign*.

Persueing this *Method*. The *Inscription* taken in the Latitude of Sence, may seem to imply either *Prince*, *Councillor*, or *Magistrate*; yet strictly examining their Relation to this *Attribute*, we shall find neither the *Former* nor the *Latter* comprized in this *Denomination*. The priviledge of a *Prince* being rather to *Determine* then *Advise*. And the Duty of a *Magistrate* simply to dispense the *Laws* enacted according to the *Letter*, without consulting of their Nature; we will therefore

limit the distinction of a *Minister of State* under this Notion; *He that hath in his Council a peculiar Influence over the affairs of a Common-wealth under what Government soever.* But to enlarge further on the Exposition, though *Council* be the ground of his Character, yet we exclude him not from the Capacity of *Action*; or (in Free Common-wealths) of *Determining*, either Essentially, by force of Reason, or Accidentally by Advantage of Number. Notwithstanding the *Nature* of his Function may without either properly subsist, as not inherent to his *Ministry*.

II. *The Principles considerable in his Person, and the Exterior Dependants.*

1. *Of his Form.*

THe *Nature* of our *Subject* thus prefigured, we pass to the Consideration of *His* Person, and in Respect of the *Exterior* part, and the Dependances thereon, propound these Principles. His *Form, Birth, Education, Profession, Age, Possessions, Community, Demeanor, Speech.* Though the *First* Endowment may seem to be a very inconsiderable part of our *Subject*; Yet since it neither wants the usage of Antiquity, nor Practices of modern Times to lend it weight, we will expostulate the consequence thereof. From Tradition of Antiquity, the sacred *Letter* presents us an authentique proof *thereof, in Saul's* Election, as pointed out by the hand of the *Most High*, in the direction of *His Prophet*, who was so eminent in his Person above the rest of the People, *that he exceeded them all in height from the Shoulders upward*; which the Prophet in his Presentation infers as the ground and warrant of his Election. *See you him whom the Lord hath chosen, that there is none like him among all the People.* To which distinction agrees the Poets description of the *Roman* King.

Ipse inter Primos praestanti corpore Turnus
Vertitur, Arma tenens, & tota vertice supra est.

Turnus, the chief, in Stature did exceed,
Holding his Arms, o're tops them by the Head.

From Modern times we will onely insert that *Cavibal's* Answer, *Mountaigne* relates, who being at *Rouen*, where *Charles* the Ninth then was, by Interpreter askt what he observed remarkable amongst them, said, *He wondred among other things, why they suffered a little Boy to Rule over them, and made not*

rather

rather choice of one of those goodly Personages above him; meaning the *Swissers*; which Inference, though seeming to mark out but a rude and particular part of the *Form*, as from a Native not acquainted with the Rules of Civil Policy, having for Object onely the First Principle of *Rule*, Force: Not but a peculiar Office, differing from our *Subject*. Yet since the Faculties of the Mind, of which this is but a shadow, are equally necessary to *Both*, we may appropriate generally all Dimensions of the Body, indifferently to *Either*. *Ipse animi magnitudo refert quali in corpore locati sint, multa enim è corpore existunt, quæ acuunt mentem, multa quæ obtundunt.* *It is very material to the exercise of the Soul, what body it is placed in; many things existing from the body, which sharpen, many which may stupifie the mind.*

Agros dividere atque dare,
Pro facie cujusque & viribus ingenioque,
Nam facies multum valuit, viresque vigebant.

To Forme, Strength, Wit, all Power yield,
To give and to divide the Field,
The Beauty of the face doth charm,
And reinforce the vigor of the Arm.

Aristotle hereto intitles the right to Command, affirming the *Indians* and *Æthiopians*, from hence make the Election of their Magistrates and Kings; and *Plato* thought it necessary to the Conservators of his Common-wealth. To search further into the ground of such an institution, we must conclude it to be raised from a conjecture, that the exactness of the *Form* gives either Evidence, that the Matter hath received a more perfect Impression of the Image of the Maker: Or, as the Naturalists say, that the disposition of the Soul answers the dimensions of the Body; as Twinns from one Original, the natural Temperature.

A proof to the first Assertion may be deriv'd from the composure of the *Word Incarnate*, who (though *Tertullian's* Reverie hath other ways figured Him) was, without doubt, in his Person the most beautiful among men, according to *Pub. Lentulus* occular Testimony of him to the *Roman Senate*. The second Inference hath been so frequently found true, that the observation is (among the *French*) digested to a Proverb, *Lesbornes & les boiteux sont tousjours meschants*. *The Blind and the Lame* (meaning naturally) *are always vitious*. And according to this Rule, the Poets Figured *Thersites*, which, though it failed much in *Socrates* Constitution, rendring the Phisiognomist Judgement of *Him* but ridiculous: yet *Socrates* repaired again

the

the Dignity of his Art, affirming that *He* was by Nature such as he had Figur'd *Him*, but by the industry of *His* Mind, He had restrained that Propension. For conclusion therefore, since few or none will so much as struggle with one vitious Inclination, it will be far safer, that we should guide our true Election by this Appearance, though but a frail one, subject to corruption, then yet to hazard it in expectation of a Miracle. To which position may possibly be objected, that since we have limitted the Faculty of our *Minister* in Council, we should as thereto onely proper, prefer the Abilities of the Mind, which commonly supply the Defects of the Body, before the Integrity of the Manners, which follow but the complement of the *Form*; there being in matter of Advice more use of Reason then of Virtue. In answer to the first part of the *Objection*. It may be granted, that ev'n by the advantage of Excess (whereof the extern Deformities are but inherent signs) the soul *more perfectly* in some intemp'ratures may exercise some one peculiar Faculty of the Intellect, then in any one peculiar Temp'rature, how regular soever, as the predominant Humour is more proper to the usage of the Fancy or the Memory, but withal, becomes thereby inferior and defective in the rest. So that we may affirm, since by virtue of the *Animal* Spirits, the Soul produceth her Action, and by how much more pure the Instruments are, by so much more perfect are the effects. The Spirits *Animal* receiving onely this excellence from the Equality of the Temp'rature, whereof the exactness of the Form is but the Character, It of necessity will follow, that from the agreement of the Elements, must issue the most excellent and pow'rful Harmony of the soul. To the sequel of the *Objection*, we will only inferr, that it being too obvious to every sense; how frequently frail Man doth make his *Reason* but a Prostitute to his *Lust*, not only to the abusing of others, but to the deceiving of Himself; it will be requisite to unite *her* to an Object nigher *her* own Nature, to preserve her in her Purity. And conclude, that since the *Almighty* hath not onely excluded the *Impotent*, but the *Deformed* also from *His Ministrie*; We therein have sufficient warrant, not to admit *Him* unadvisedly to *Ours*.

III. *Of His Birth.*

FRom this *Particular*, may properly be derived two Branches considerable to the exact discussion of our *Subject*. The *Place* and *Quality* of our *Minister's* extraction. What concerneth the first Distinction, will, questionless not meet a contradiction

diction; in affirming it to be requisite, our *Minister* be a Native of that Common-wealth, o're whose affairs his Council should preside; insomuch, as every Person hath a Peculiar and innate Affection for the Glory and Prosperity of his proper Nation. Nor are the *Natives* usually so subject to the jealousie of the People on the Miscariages of publique undertakings, as *Aliens* are accounted. Furthermore, *Natives* receive many other advantages in their early and frequent Habits, which *Aliens* commonly are not endued with. As the perfect knowledge of the National Laws, Customs, and Nature of the People, with the Facility and Elegance of the Tongue, to expediate or illustrate their Discourses. The subject of the second Branch inherent to *His* Parentage, presents to our Examination two Propositions whether our *Minister* may be accepted from a *Noble* or *Ignoble*; from a *Detected* or *Incensed* Family. For solution to the first *Quære*, we will unfold the Inconvenients and Advantages of *Either*. The onely Benefit *Nobility* can promise us in *His* Reception, is to give Lustre and Authority to *His Ministry*. The Advantage Ignobility presenteth us in *His* Admittance, is vulgar satisfaction. The First yields, but at most, an Ornament to Rule. The Later but Licentiousnes in Rule. The Inconveniences wait on Nobility in *Ministers* of *State*, are *Jealousie* and *Faction*. As appears between *Cæsar* and *Pompey*, to the Translation of the *Romain* Common-wealth. And between *Hanno* and *Hannibal*, to the destruction of the *Carthaginians*. The Disadvantages attend on Ignobility in a *Minister* of *State*, are *Envy* and *Contempt*, as may be visible in the transaction of Affairs, under the Ministry of ***** and Others to the shaking if not hazarding our Own. In the first Ambition moves more Impercceptably, as being more nigh the Object of the Passion. In the later more Impetuously, as more removed from the Point it reacheth at; so that the Consequence of our Argument will guide us to a Mean participating of the Nature of both Extreams, as most expedient to the execution of our *Ministry*.

The second Proposition consisting in Parts of different Nature, we may devide them in our Treaty; and first take that, which moves, whether our *Minister* may be accepted from a *Detected* Family. Of which question ere we determine, it will be necessary first to propound Another, whether *Mercy* or *Punishment* followed the Detection; if *Mercy*, the utmost Ground of our suspicion can be laid but on the Seeds of Inclination, contracted from the Impressions of Nature, or of Discipline, which reaching to no farther certainty, the Party safely may be joyned to our *Ministry*, induced by Example of *Augustus*; who happily convincing *Cynna*, by his proper Evi-

dence of his conſpiracy againſt *Him*, did both the Crime remit, and readmitted him with ſuch ſucceſs, that neither yet by him, nor any other ever after, was any Treaſon, that was viſible, or Practis'd, or deſign'd againſt Him.

If *Puniſhment* hath followed the *Detection*, the Argument will meet with the divided Sequel of the Queſtion, and running in one Currant, fall under the Capacity of One Solution, under the Figure of *Incenſed*. Although it may admit of ſome diſtinction in the Manner; as whether the efficient Cauſe were Juſt or Injurious, Direct, or but Collateral, Nigh, or Remote. Yet, ſince no Obſervation can preſcribe a Limit to Mans Paſſion being generally o're partial Judges in our own Affairs; ſuch Circumſtances will afford but little Difference in the Conſequence. So that we may herein conclude of Both, under one firme Poſition, in a general Excluſion of them from our *Miniſtry*. The dangerous iſſue of Indignation in a *Miniſter of State*; whether juſt or unjuſt, ſprung from Injury or Diſpleaſure, are truly figured in *Cataline*, who, ill-reſenting the Diſgrace of a Repulſe, when he ſtood to be *Candidate* in the *Pontique* Warr, contrived ſecretly the viſible ſubverſion of the *State*. And was not farr off from effecting it. Like evidence may be inſtanced from *Julian*'s far more Juſt, though more unhappy Fury; who on the violation of his Daughter *Caba*, in his abſence, imploy'd on publique exigents, was at Return, poſſeſt with ſo inveterate a hatred againſt the preſent Governour and Government, that he forthwith brought in the *Moors* to *Spain*; who, there in ſundry bloudy Conflicts, being prevalent, became at length Poſſeſſors of the Territories four hundred years together. Nor do ſuch like *Punctillio*'s of our Honor produce leſs violent Paſſions in remote Succeſſions, *They* being of ſuch uſage in moſt Common-wealths, That it is held as neceſſary to the Continuance of their Reputation, to ſucceed to the Quarrels of their Predeceſſors, as for the ſupport of their Livelihood, to Adminiſter to their Goods. And though the Fury hereof oftner doth reflect upon ſome private Family, as the indirect Promoters, or ſecret Contrivers of ſuch Injury or Diſgrace, then on the Head or Body of the State, from whom it was immediately received. Yet are the Conſequences thereof too frequently, as fatal to the One, as to the Other: witneſs the incenſed Proceedure of *Arron*, who on his Adverſary's prevailing againſt him in a Plea indicted for the Raviſhing of his Wife, brought in the *Gaules* to *Italy* to the ſubverſion of his Enemies, and Devaſtation of that Continent.

IV. *Of His Education.*

THough this *Principle* unfoldeth many *Objects* necessary to the forming of our present *Subject*. Yet since most of them are rather Preparatives, then Polishments, regarding more immediately the Interior (which we are not yet come to, then the Exterior, that we onely are in Hand with) we will here pass by those *Institutions*, that are usually proper to the two first Ages: *Infancy* & *Puerillety*. And taking our *Minister* in his *Adolescence*, propound onely in Reference to our present *Subject*, these *Distinctions*, as immediately requisite to *His* Function. *Language, Letters, Travel.*

In his first years, while yet the tender Sinews of the *Tongue* are in the Accent plyant to the Direction of the *Ear*. And the Judgement not yet formed to the use of weightier *Sciences*. It will be requisite, that our *Minister* apply himself to the Aquisition of forreign *Languages*, such as are useful in Community with the Parts wherein he shall Officiate. And that *He* may therein attain to what Perfection a stranger can, without Corruption of *His Own* both in Facility and Propriety. It will be Fit *His* School should be the proper Nation, and *His* Instructors the Conversation of the most Polisht People in the same. Persueing which Method, *His* Practice herein shall neither be an Obstacle to *His* weightier Studies for the forming of His Mind. Or *His* exterior Exercises for the fashioning of *His* Person. There being in most Capital Cities in Forreign Parts both *Universities* and *Academies*.

But perhaps some may here cautiously object, that since the whole scope our *Subject* seems properly to aim at, dependeth only on the Sufficience and Integrity of the Mind, which consisting not in the variety of *Tongues*: such Procedure will rather prove to us a Penible, Expensive and useless Curiosity, then any regular or expedient Institution. In which Objection we will pass over the *Two* first *Inconvenients* which are but the peculiar Means unto the *Acquisition*, as too mean Considerations to suspend our *Argument*; not any thing Material or Excellent, falling in our Capacity to execute or attain without our *Industry* and *Cost*. And in Answer to the use, alleadge, that no Treaty, either at Home or Abroad, can with Advantage or Dexterity be menaged, without the Knowledge of the Tongue, and Habits of the Nation wherewith we are to Agitate, there being certain *Emphasis* of Speech and Graces in Action, peculiar to the Expressions and Practice of each Nation, which not rightly distinguisht, may make so great and irreconcileable a Breach; as may possibly frustrate the intention of the Consultation. How successful in Foreign Negotiations, agreeable Ministers may be, is obvious to every Sense, and how they can be so, without that which should render

render them communicable, is a Miſtery not yet explicable.

The next *Object* propounded to our *Miniſter*, is *Letters*, to whoſe free Acceſs, it will be neceſſary to be indued with the *Latine* Tongue, which (though not at preſent *National*) may alſo be to *Him* of farther uſe in Foreign Agitations, wanting *Thoſe* that are, and with all ſufficiently ſerve to the Introduction of ſuch a part of *School-Learning*, as ſhall be requiſite to our *Miniſter*, which ſhall not need to be extended farther, then to lend *Order* and *Propriety* to *His* Diſcourſe: And to free his Spirit from the Tirany of the ſtrangeneſs of it in Anothers Mouth. Not ſo far to handle *it*, to make it a Fetter to *His* Reaſon, a burden to *His* Memory, a ſervile anticipation of *His* Judgement, or a Diſcord in His Manners. To avoid all which, it will be dangerous to encounter this many headed Monſter (ſuch more in Reſpect of diſagreeing Opinions in Pretenders to her Myſteries, then in her own Nature.) e're the Judgement be perfectly formed, and confirmed, leaſt what *He* thought to Maſter and Poſſeſs for the Advantage of *His* Natural Endowments, Poſſeſs and Maſter *Him* to the Captivity and Extinction of the ſame.

Theſe with Dexterity handled, may prove ſuperficial Ornaments to our *Miniſter*, but the more exactly uſeful and Eſſential to *His Miniſtry*, and in the Exerciſe whereof, *He* ought ſolely to imploy all the Vigor and Induſtry of *His* Mind, are the *Laws* Common or National, Civil or Univerſal. And *Hiſtory* in General, which (for better enlightning of the Circumſtances in Either) ſhould walk Hand in Hand. Not to receive the Notions of *Law*, as unalterable Poſitions, Nor the Traditions of *Hiſtory*, as meer Narratives to ſwell the Memory. But from Hiſtory, to examine the Ground and Occaſions of the *Laws*. The Iſſues and Events of ſuch Councils, ſuch Affairs, ſuch Enterprizes, by what Perſons How Endowed, how Managed, and from the Circumſtances of the Laws to gather true Lights of the ſecret Intreagues of former Ages, by Corruption or Ignorance of the Chronologer ſmothered, Diſguiſed or Neglected, ſo comparing Occurrents of preceding Times with the Preſent, Collect by ſuch Obſervation, what Laws ſhould be Appealed, what revived, what reformed, what Introduced or Eſtabliſhed. How farr to be Extended and where Limited.

For other pieces of *Learning*, as Aids to our *Miniſter*, we ſhall only propound ſuch Parts of the *Mathematiques*, as ſhall concern the Military Function; whereto he poſſibly may be call'd to be an Arbitrator, either in the Defenſive or Offenſive Part thereof.

The Third *Object* of *His Education* here ſpecified, is Travel

vel. Of which we may seem to have treated in the manner of His Acquisition of Forreign *Tongues*; but such years being not yet sufficiently mature, to make the true use of the most weighty Observations thereof, we have made it the immediate closure to *his* Exercise, and the Preface to *His* Practice; The Advantages hereby acquir'd are numerous, among which he shall learn the true art of *Conversation*, not so much, what concerneth the Civil, Courtly, and Superficial part thereof (though not an immaterial faculty in *his* Function) as the Political and Essential. How to endear *himself* with the most Savage Inclination, How to secure *Himself* from the most fraudulent, How to avoid the Distastes of the most Insolent, How the Disgrace of the most scurrilous, How to shun the Incumbrances of the Impertinent, and how the Importunities of the Impudent, How to fasten on the Babler for Intelligence, How on the serious for Instruction, How to suffer immov'd the most Contradictory, and how to satisfie unprejudiced the most Curious, How to distinguish and make use of all Humors and Inclinations, How with Dexterity to be All to All, To present every one their Figure, and yet retain his own. And in all these to become so perfect a Master of *His* Passions and Purposes, that the very shadows thereof shall never fall under Anothers sence; To which some may perhaps object, that this Mystery may as well be attain'd at home, without the community of Forreign Parts, diversities sufficient both in Manners and Affections, being thereto with us to be found. This being granted, yet the insensible and unexamined Habits and Customs of the place, wherein we were born and bred, smother the perfect and visible Lights thereof; so that in the frequency of use, we not distinguish or not consider others Faculties, nor yet awake our own; whereas each Forreign place we come to, will afford in nature new Proofs and Figures to our observation, which Art elsewhere but slightly counterfeits

As to other Advantages *Herein*, he shall hereby be able to make an Occular Observation of the strength or weakness of Forts, Harbors, and Passages; Riches or Poverty of the Countries; popular or private Discontents, Grievances, Fears, Jealousies, Resolutions, Court and State Factions, by whom favour'd, how qualified, whereon grounded, how pursued. He shall further hereby finde opportunity to form a private and faithful Correspondent on the Place (under the colour of Curiosity), whereby *He* may have perfect Intelligence of Forreign Occurrents, the better to direct *His* own. Of all which Overtures *He* shall make good use either in Publick or Private Treaties, secret or open Breaches, with many other Advantages, whose Nature, Variety, and Use would require a particular Treatise, and we for brevity will here omit.

V. *Of His Profession.*

WE might without Scruple admit of any Profession to this our *Ministry*, whose quality were no Dishonour to the Dignity *Hereof*, nor Nature repugnant to the vacancy *Hereto*, were it not an Imployment requires the whole Man in Action, and the whole Life for Instruction. If Civil Policy among the *Chaneses*, figuring one mans Life too short, *hath establisht a Custom to introduce a Perfection, even in Mechanick Arts, by enjoyning each Artists Posterity to follow the Function of his Predecessor.* How much more necessary will it be to sequester our *Pretender* to this high difficult and Noble *Mystery*, from all other Negotiations whatsoever. This was the ground of *Philip's Reproach to his Son* Alexander *the Great, when in the Olimpick Games, he bore away the Glory in Musick from all his Emulators, implying that his Excellence herein was a shameful proof against him, to have been remiss in time and Industry, in pursuit of other Endowments more proper to his Regal Dignity.* The motions of the *Civil* Body can no more without hazard of Ruine, suffer Cessation or Intermission, then those of the natural. And since the whole strength of the united *Ministers* is little enough to keep this *Machine* in a regular frame, it will be requisite not yet more to weaken their force in the Division thereof betwixt publick and private Interests. The Integrity of *Atilius Regulus figured to us* this inconvenience *in his request to the Senate (on the Death of his Bailiffe) to be dismiss'd from his Embassy in* Spain, *that he might thereby have liberty to manage his own Domestique Affairs, which extended but to thirty seven Acres of Ground.*

To which may be objected, how any then shall usefully be admitted to our *Ministry*, since it is necessary to every mans livelihood, that he have *Profession* or *Possession*, either of which will afford but small Benefit to his Existence, if by him carelesly abandoned; we may answer this Objection with the Remedy borrowed from the Senates example and Answer to the Petition, which was, *That he should repose the Burden of his Domestick Affairs on their Care, who would provide a faithful and sufficient Supervisor to the managing thereof:* Nor is it but in reason equitable, that if our *Minister* addres all his endeavours to the benefit of the Publick, but the Publick should likewise contribute some cost to the support of his private Interests.

It may also here possibly be farther alledged, that there are certain intermitting seasons of Peace and Relaxes of Affairs in most Commonwealths, whose smooth calmness may sometime dispence with their Pilots Diligence, since oft it scarce affordeth matter to *His* Action; to which for reply we infer, that such

such Constitutions of *State* are subject to the most dangerous Accesses of Distemper. Since neither Nature nor Policy suffering Retraction or Demur, must of necessity, proceeding still, fall into the Contrary Excesses; insomuch as all Extreams meet but in one and the same Point. As the most perfect Constitutions of health in *Natural Bodies*, so in *Civil*, are obvious in their Changes, to the most despetate Infirmities.

Another Argument may probably yet hereto be inserted against the strictness of our *Ministers* attendance on his Function, fram'd on the Multitude of Members, which may alternately supply each others vacancy: To which we may alledge, That it is the Bane of a Council, where the several Members Thereof rely upon each others Diligence, Sufficiency, or Integrity; in which none answereth His peculiar Trust, that dischargeth not his proper Conscience, and inureth them to handle Publick Affairs (not having immediate Relation to their private Interests;) with that Indifference and Neglect, as if they not materially concerned Them. And farther lendeth an Advantage in Absence of Particulars, to facilate the secret Practices of a Faction. Secondly, By such Intermission our *Minister* looseth the preceding Coherences of several Agitations, whereby his Judgement cannot sufficiently be enlightened for the future. Thirdly, To the exact constituting of a *Council*, is to be observed a just Proportion, as well as a due Propriety of Parts. If they exceed in number, Disorder will meet their various Agitations, Obscurity their mutual Conceptions, and Protraction their positive Determinations: so that in the issue small fruit will follow their Consultations: If they fall short of a true Dimension, it will rather be held a Private Combination then a Publick Convention. If they meet a perfect Symetry in their Union, we must then conclude, there being no one Superfluous, there will be no one conveniently to be spared; and if there might, on other ground then necessity (which admitteth of no Rule) such Licence would be to the rest, a just Plea for like Privilledge: so that in the dismission of one, we may perhaps often want the better part of our Assembly.

Moreover, we figure our *Minister* so excellently endowed both in natural and acquired Habits, that no Age, how happy soever in the Production, or State so industrious in the forming, will at any time, with fertility beget such a croud in this Society, that a supernumerary shall still be ready to supply a Default. In Oppositon hereto, may yet farther be alledged, that this is so servile and anxious a condition, that no generous or free-born Spirit (such as is here pretended necessary) would ever be won to render himself subject to. This being granted, must either proceed from want of Love to his Countrey, Address in the faculty,

Faculty, or use in the exercise: could *Milo* else, *with delight annually for the Advantage of his strength bear every day an Oxe?* And shall not our *Minister* expose himself infatigably to the Assiduity of so glorious an enterprise; as the *Common Welfare*, which *Scevola* held dearer then his *Hand*, *Regulus* then his *Eyes*, and *Curtius* then his *Life*; and will not only render his present Being useful, but necessary, and *His* memory not only venerable, but eternal: to which we instance not here the enlargement of *His* Fortunes (which must follow as a consequent) being too abject an inducement to bear any Influence over *His* nobler Inclinations: Nor will a plausible Recreation be at any time wanting in the Excellency and Variety of our *Subject*, though not perhaps those fancied by a looser Temper: yet such as are more proper to the Rellish of that Age, we shall hereafter figure *Him*: so that we here inhibit not *His* Divertisement, but only thereof change the Quality.

VI. *Of His Age.*

WEre it so, that the Abilities of the Mind depended not on the Maturity of years, nor Experience on the frequency of Practice, as may be affirmed from the Transactions of *Alexander*, *Scipio*, and *Augustus*, in the early undertakings and successful Issues of their Enterprises, whose miraculous Fortunes seem to have had a more secret Foundation than humane Reason can either frame or discover. Yet to educe such Faculties to a useful Exercise, it were expedient, Time should infuse a perfect Allay to the natural Temper, the better to withstand the Proof of every tryal, whereby neither the high fervour of the Blood in Youth might be too prone to transport the captive will to such a wilde Temerity in Action, as to attempt on any Difficulty: nor yet the frigid sloth of Phleame in Age might so benum the vital Spirits, as in a timid Jealousie to restrain the passive will from every seeming opposition: Of which extreams the Danger to avoid, we Figure this our *Minister* of that *Age*, which Naturalists style, *Ætas Consistens*, betwixt 35. and 48. In which years, Nature seems in her course to have attained a kinde of Repose, having as then in man completed her designed work, when no longer employing her vigour on the disposing of her edifice: nor as yet shrinking under the burden of our frail Composure, seems at a stand to gather strength against the assaults of the succeeding time: Not that on such terms we so precisely fix, as never to admit Exception at our choice, since many times we see, Nature her self in the Defect or exact Disposition of the matter, protracteth or anticipates her

her courſe: but that we might receive a general Note to guide our purpoſe ſo nigh Perfection, as natural Lights may reach to.

From which Argument ſome curious Fancy may perhaps collect Matter to inſert (if not by way of Oppoſition, by way of an exacter Propoſition) That it were better to form our *Council* of ſundry *Ages*, following herein the Pattern of a Natural Body, which is conſtituted in Parts of ſeveral Tempers, to the end, that what One Member were defective in, might be ſupplyed by another.

To which we may alledge, That Nature hath conſtituted the Body in parts of differing Tempers, in Reſpect of the Aptitude thereof to differing uſes and Miniſtries: And ſo having divers ends, muſt (of neceſſity, to the perfection of her work) make uſe of Inſtruments of diſtinct Capacities. But our *Civil* Body, though formed of ſundry Members, yet having but one only Object, It were rather more proper (if poſſible) that they ſhould ſo ſympathize in their tempers, that no one might thereby diſſent from other in their natural Lights: But from their equal endowments might reſult an unanimous Agreement in their Conſultations.

It may yet hereto farther be infer'd, That men are often more ſucceſsful in the ſearch of Truth, by interjected Doubts, and Oppoſitions formed from diſagreeing Opinions, then by the general Allowance of aſſenting Judgements, *Which hath ſometime condemned Truth it ſelf for Hereſie*, and may perhaps be the Reaſon, why *Solomon* ſaith, *In the multitude of Counſel there is ſafety.*

This granted, by diſſenting Repugnances, Truth may oftentimes be brought to Light, but far more frequently, is by ſuch Conteſtation ſmothered in the Iſſue, leaving the Idea only of an unform'd Monſter. Moreover, if ſuch Diſcuſſions were needful to Truths Diſcoveries, theſe (ſo well as in obſtinate Differences) might be otherwiſe ſtated in Agreeing Suppoſitions, which though oftentimes but ſlenderly ſupported, wanting the Paſſion of a proper Owner; yet may they unto every common ſence, afford ſuch Lights, even in their firſt Diſcovery, as to diſcloſe the Neceſſity of their farther Agitation: which bearing in it ſelf but weight, will want no Proſecution.

But we may peradventure meet with ſo repugnant a Spirit, as would attempt to force us out of our purſued Tract, with *Mountains* Obſervation, *That Affairs are ſeldom ſucceſsful, when ſifted ſo fine in their inherent Conſequences, as to admit no ſhare for Chance to work upon, which notwithſtanding will be the chiefeſt Agitator in the managing. Whence groſſer minds are oftentimes more happy in their Conſultations, then more refined Judgements.*

To which we answer, That it is safer and more satisfactory to a generous minde, as *Alexander* said, when advised to take the Advantage of the night to assail his Enemies more numerous then his Force, *That he had rather suffer the injury of his Fortune, then the shame of his Victory.* To fail under the conduct of that Light, God in Nature hath afforded us, then to be successful either in the Opposition, Digression, or Omission of her Prescriptions.

Furthermore, since every Age hath at least his innate propension to peculiar Imperfections, it will be safest to accept of such seasons, as are most remote from the Extreams.

Peradventure we may here yet meet the Authority of *Solomon*, as an Objection to our Argument, *Whoso often preferreth Gray Hairs to the Ministry of Council.*

We must Hereto so far agree, That *Age* (if rightly practised) wins great advantages to the Perfection of our *Ministry*, in the Observation of a long Series and Contiguity of Affairs, confirming still the Judgement by an Occular Proof, whereby It consequently becomes more visibly effectual to a civil Consultation. But it must be with this Limitation, That such years meet so perfect a Consultation, as may retain Capacity properly to dispence those Notions. Since we observe it evident by daily proofs, That not onely by visible Infirmities of the Organs which follow our Disorders, but by an imperceptable and Natural declining of the Spirits; most Men, e're they attain that Term of Life, do oft out-live their own sufficiency.

VII. *Of His Possession.*

THis *Particular* in Relation to our *Minister* presenteth three inherent *Subjects* considerable in Discussion. The *Quality*, *Quantity*, and *Dependence* thereof. But before we treat of the *Branches*, it will be requisite to examine whither the *Principal* be necessary to our *Subject*. Since the Graces of the Mind may really consist without the Benefits of Fortune: Nay, oftentimes by Her Repugnance, standing exacter Tests, become yet more refin'd; and in such Consequence, more useful to our *Ministry*.

To which we may reply, That *Wealth*, in the meanest Portion can no way fall into conjecture, to be held Essentially, or Immediately necessary to the forming of our *Minister*. Yet weighing the collateral Impediments of Poverty, not only to the preceding Fashioning and Introduction of our *Subject*, but to his present Agitations, we may affirm *It* obliquely in some measure

measure to be requisite in *Him*. Not meerly as a safeguard from such Necessity as threatens His present Existence. There being many other more remote Degrees of Indigence, which may prove obstacles to the success of this His *Ministry*, which are to be esteemed such; in Proportion to *His* private Charge and Quality.

First, in Respect of *Himself*. The burden of His own anxious Thoughts, will render the Faculties of His Mind, not only indispos'd, but unprepared to *His Ministry*. *His* Thoughts imployed, suspended, or diverted on His proper Exigents, to whose forc'd Summons, Nature her self will claim a Priviledge.

Secondly, The inward Sense of his own abject Fortune, redoubled by Reflection of the Majesty of His own *Assembly* (if it encounter not an admirable Temper) will, Through the Dejection of the Natural Spirits, some time at least restrain the vigor of his Argument, if not extingnish It.

In Respect of Others, the Inconvenients are, That *His* private Misery may sometime in *His* mouth render e'vn Truth it self suspected or neglected. *Wisdom from a poor mans mouth*, as *Solomon* says, *being, or not approv'd, or not followed.*

Moreover, it seems not altogether consonant to Reason, that publique Affairs should be committed to *His* charge, who hath not a competent share of Interests in the Transaction.

To which we may yet farther add the casual Frailty of our own infirm Natures, which thereby lays us open to the Battery of each Corruption; not onely in the Jealousie of Others, but likewise may as far intrench e'vn on our own proper Apprehensions. Since the *wisest Man* that ever was, *became Herein but diffident of His own Sufficience, unblemisht, to sustain the Tryal.*

Concluding thus the Original of our present Discourse, in some measure proper to our *Subject*, we will peruse the Consequents hereto belonging, before specified.

From the *Quality* or Nature of His Possessions may arise Two Doubts. Whither we shall admit *Them* Moveable, Temporal, or Fundamental, National or Forreign. Both which Propositions will fall under the capacity of one Solution, which shall be, That the safest proceeding in our Election, is to aim at the firmest Pledges of *His* fidelity, we constitute to our Trust, Not that we shall not hereafter be so cautious to exact of *Him* securer Proofs of His Integrity. Nor yet at present so Scrupulous, as not to admit Him to our *Ministry* without the exact concurrence of such Evidence, having e're this past the Test of more Essential Tryals.

To

To this Distinction in Order, succeedeth the *Quantity* of *His* Possessions, one extream hereof we have already handled with the preceding Principal; the other, that of course here falls in Agitation, is the excess of wealth (not such in measure proportioned to the fancy, but condition of the owner.) How deceitful an Impostor *This* is to cheat the sense, the wide worlds general Homage to this Idol may be evidence, *Who*, to use *Mountaigns* Terms, *judge of the Palfrey by his goodly Trappings: And believe my Ladies Chappein's an Essential part of Her admired Personage.*

How corrupt an associate to the Owners Reason, sacred Authority hath to us attested, *Figuring the Incapacity thereof to all that's good, under a humane Impossibility.* Moreover, how nigh and tempting an Access such affluence may lend Ambition, not seldome only to the disturbance of the common Peace, but to the Subversion or Translation of the whole Fabrick of a Government, all Ages will afford us woful Patterns.

Rejecting thus the extreams, as inconvenient in our *Minister*, it follows without farther consequence, we must approve the mean, which from the result of our Argument not yet distinctly figured to the sense: We will propound It a Proportion capable in a sober Temper, to free the minde from the assiduous servility of others, or of His own occasions: which end, if compassed, more by the vigour of His proper Reason, then the Advantage of His present Fortune, will render Him yet more acceptable as visibly more hopeful to our *Ministry*.

The last inherent to this present *subject*, is the *Dependance* of our *Ministers* Possessions; which we shall negatively include in one convertible Proposition, That neither His Estate, if possible, depend by Tenure, Custom, Homage, Copy, or otherwise on any others, then the Princes, or States, to whom he is Subordinate: nor yet that many others in like manner do depend on His.

The former, if admitted, might perhaps form such engagements on our *Minister*, as may enthral the freedom of His Spirit, and thereby sometime cast a private restraint on the Persuit of publick Purposes; or wrest some Publick motion to a Private Interest.

The dangerous consequence of the *Latter*, if admitted, too soon yields fuel to incensed *Ministers*, to become unequal Repairers of their secret Discontents, as hath too oft appeared to the damage of this Nation; and formerly gave occasion to a Cautious Prince, by sundry Acts to take away the Ground thereof from all succeeding Ages.

VIII. *Of his Community.*

THis *Principle* (rightly considered) will lead us to more visible and Essential Discoveries of our *Minister's* inward Temper, not so much in the borrowed Image issuing from the insensible Impressions our facile Nature receiveth from the Habits of our frequent Conversation; as in the innate Idea, others may thence collect of the secret and natural Propension of *His* minde, following therein such Objects as seem unto *His* fancy most agreeable, which may be lights to guide us in Election. But chiefly (when constituted a member to this *Assembly*) we shall by way of advice interdict Him three Societies as inconsistent to the Advantage of *His Ministery*. Of *Bibbers*, *Curtisans*, and Forreign *Ministers* of State; under which Heads are figured to us the three eminent Strengths in Contestation for Preheminence in their Efficacy over the will of Man, *Wine*, *Women*, *Wealth*: Not that perhaps our *Minister* may not be of so excellent a Temper, as to resist the Contagion of their contingent Imperfections, though the common frailty of our own corrupt Nature may afford us hourly matter enough to entertain the exactest Virtue in uncessant exercise, without attempting on such Tryals, may in his failing, hazzard the common safety with *His* own. The Danger Hereof will appear more evident and weighty, when to *His* innate Infirmity, we shall Ballance the insinuating force of these their Instruments with the full extent of their Operations.

The Impostures of *Wine* first steal upon the wariest Temper, under the Disguise of Natures helpful Ministry, admitted thus in one Degree for useful; Custom, at length, will in Another form it necessary. Mirth exalts the measure, and company procureth the excess, which not only smothers the Natural Light in Present, but disables it in Future, leaving the irregular Demeanour so ridiculous, that what should Grace *His* Dignity, detracts from *His* Authority: while the shallow Image of *His* thoughts hang on his fleeting Breath, and by the least disordered motion of the Heart, drops from his slippery Lips, perhaps to the betraying of the general welfare.

But peradventure some may alledge, that our *Minister's* happy Constitution may as well gain this Advantage over others Imbecility, as Another over *His*: and that there are certain Climates, to whom this Custom is so proper, without the Proof Hereof, a *Minister* with them successfully can seldom agitate.

To which we may answer, That it is too uncertain, hazzardous, and indirect a Procedure, to intrust an equal portion of Affairs of this high Nature, but to the Advantage of the Natu-

ral Temper, to whoſe exact managing, the perfecteſt Lights of Reaſon or of Art, are ſcarcely capable: But were It granted neceſſary, there might be other Agents found hereto more proper, whoſe Ignorance might anſwer for their Secreſie, and free the State from Caſualty of ſuch a Damage, without imbarking of an equal venture.

How irreſiſtably the Charms and ſlights of wanton Womens Subtilties work on our ſelf-betraying Nature, lying in our Boſome, all Ages will afford us evidence, whoſe woful Proofs have not left Man the hope of a defenſive Armoir. To theſe, we finde in *Sampſon*, *Solomon*, and *David*. The ſtrongeſt to his Ruine, betrayed his ſtrength. The wiſeſt to the diſmembring of his State, his Knowledge. And the moſt zealous, to his Reproach, his Piety. It will therefore be no ſcandal to our *Miniſter's* Sufficience afar off to avoid this *Precipice*, become remarkable by the overthrow of ſo many eminent Perſonages; not only in *His* own Reſpect, but in Regard of publick Intereſts (by *him* to be preferr'd before *his* own) which lying in *his* Boſom, may oftentimes be incident to the like Diſaſter.

Whereto may be objected, That there are alſo certain Commonwealths, with which our *Miniſter* may have Commiſſion to communicate, wherein the ſole, perfecteſt, and moſt material Intelligence of the occurrents of that Place, are only to be gained from ſuch Inſtruments, whoſe private Interview may farther be authorized from *Cicero's* ſucceſs hereby in the Diſcovery of *Catalines* Conſpiracy.

To which we make reply, That herein alſo (if aſſented to) the Ballance of our Argument remains but ſtill in equal Counterpoiſe; ſince in one and the ſame ſubject we may to the Facility in Diſcovering, oppoſe the ſubtilty in attaining ſuch ſecrets: ſo that hereby we attempt to gain no more, then we endanger to loſe. In which Reſpect, where Cuſtom hath confirmed ſuch Proceeding uſeful, and not ſcandalous, it will be more applauſive and convenient to have recourſe to our preceding Remedy, and under the Faculty of a more remote ſubſtitute, preſerve the Dignity of our *Miniſter* unblemiſhed, and Publick Intereſts from a Capacity of Prejudice.

Our laſt Reſtraint on *This Aſſociation* is with Forreign *Miniſters*, under which Diſtinction we have reduced the Force of Wealth, in that Money is the chief and uſual Inſtrument ſuch Agents work with, to the ſupplanting of their Neighbours Intereſts, or otherwayes advancing of their own, by ſecret Corruption of their *Miniſters*: Of which Method in Proceeding, the *Venetian* is ſo jealous, That they have inhibited by a penal Law (extending to the Nature of High-Treaſon) *That no Miniſter of State, or Senator, ſhall with Forreign Miniſter either at home or abroad,*

Friend

Friend or Foe, have either private or publick Conference whatſoever, without the ſpecial Licence of the Senate. Which hath not (as ſome may figure) been enacted only, as a terror to ſuppreſs private practiſes; but clear contrary, hath in every Circumſtance been proſecuted with ſuch blinde ſeverity, as hath in latter times, injuriouſly both to Themſelves and Others, untimely diſſected from their *Civil* Body (*Anthonio Foſcarini*) a Member of the greateſt Eminence, and perfecteſt Integrity amongſt them, ſuch before reputed, and after to their Grief and ſhame too late acknowledged. In which proceeding, ſince we ſeem to caſt a ſhadow of Reproach on ſo venerable a *Society*, and ſo univerſally approved Laws as hath induc't the ableſt Judgements to believe, That no *Civil* Juriſdiction either hath had, or need to have firmer Baſis to the Eſtabliſhment of a laſting Government. It will be neceſſary to digreſs ſomewhat from our preſent Subject, both to expreſs and prove the Defects in ſuch Ordinance, as alſo in the Diſpenſation of the ſame. Briefly therefore we may Object againſt one Clauſe in the Edict, That it is againſt the Dignity and Purity of a Law to propound any Recompence to the Dilator, as pre-intending to ſuborn by ſuch Corruption falſe Witneſs to the Plea, and to invite the Indigent as well to ſuggeſt a Lye, as to diſcloſe a Truth.

To which if infer'd, the Neceſſity Hereof to a due Information; we may reply, That if the Vigor of a plauſible Affection to a Common Cauſe, be not in every Peculiar Perſon ſufficiently effectual to the vigilance of their proper ſafety inherent to the publick; yet, the never ſleeping Spies of Envy and Malice (to whoſe Perſecution the exacteſt *Miniſters* are moſt incident) will need no ſtipend to provoke their Fury.

Againſt the incircumſpection of the *Miniſters* to this Decree, we may in this particular infer, That no Judge whatever, by the Nature of his Office, is tyed ſo ſtrictly to depend on the Evidence of a Witneſs, as to neglect the circumſtance of the Matter, which divers times affords the exacteſt Lights to Truths Diſcovery, both without and beyond a farther Teſtimony; as appears in *Solomon* and *Daniels* Sentences: which, duly to conſider, had not thoſe *Miniſters* admitted, the falſe Depoſition of a Band of Braves, would not have had the weight to overballance the juſt Renown of ſo vertuous, long approved, and faithful a *Miniſter*: where the defenſive evidence was to be wav'd as irreceivable. But to come nigher to our preſent Subject, The true ground of this Law wants no other Authority to lend It conſequence, then the numerous Examples of *Miniſters*, thus corrupted almoſt in every Age.

Not that we ſhall here declare a general ſuſpicion of our *Miniſter*, but to prevent the irreſiſtable motions of our common

frailty

Frailty from a dangerous iſſue. How forcible and prompt the means in Practice is to our Corruption; ſo obvious is to every Senſe, we only will inſert this antick Obſervation; That the *Common union of the ſtrongeſt City is not of Force ſufficient to reſiſt the entry of an Aſſe laden with Gold.*

To conclude, where no ſuch Inſtitution is of force, but general freedom licenſed; It will become the Prudence of our *Miniſter*, if wholly not to refrain ſuch Converſation, at leaſt to uſe it with ſo nice a Prudence as may not yield a ſeeming ground to others jealouſie of *His* ſincere Intentions.

IX. *Of his Demeanour.*

IN the Reflection of this *Subject* we ſhall make nigher, and more viſible Approaches on the Diſcovery of our *Miniſters* ſecret Inclinations, which yet may lend us a more hopeful Introduction to His Inſtitution, as they are more exactly appropriated to the perfect managing of His *Miniſtry*; in Relation to which we ſhall here only agitate on this *Particular*.

His exteriour *Demeanor* may properly *herein* be limited under the extent of three *Objects*. His own *Aſſembly*, *Forreign Societies*, and *National Sollicitors*: But e're we handle *It* as diſtinctly proper to theſe *Particulars*, we will conſider It in *General*. How inſenſibly and powerfully the unaffected Graces of the exteriot *Demeanor* win upon others Inclinations, ev'n in the firſt Aborde, may be diſtinguiſhe in the effects by the moſt Savage and unciviliz'd Temper, though undiſcovered in the cauſe thereof.

'Tis not the affected Geſture of the Mimicks of our Age, That our Intention is directed to; but an inexpreſſable Agreement in the Motion of the Parts, whence iſſueth, as it were a ſilent Harmony. 'Twas the admired Efficacy of this, that charm'd the fury of the rebellious Multitude, their Arms (the Fuel to their Rage) yet in their hands, when *Alexander* and *Cæſar expos'd themſelves into the throng, unguarded and alone, to the Attachment of the Incendiaries*, who fearing none, were to be fear'd.

'Twas the ſecret working Hereof, calm'd the unappeaſable Ire of *Edward* the *Black Prince*, againſt the *Lymoſens*, *While entring their City, the Bloody and irreſiſtable Inſtruments of his Vengeance yet in the height of Execution; by the Reflexion of the valour of three Gentlemen thereof, had put this his victorious Army to a ſtand.* 'Twas *Scipio*'s gallant *Demeanour* at the Bar, that ſilenc't his Accuſers, and aſtoniſhed his Judge. This is the very Life of *Rhethorick*, ſo oft hath wrought on the Affections of the Multitude beyond Intelligence.

But

But to return to the Propriety and uſe Hereof in the *Particulars*. And firſt in Reference to the Convention of His own *Society*, whoſe diſtinct Conſultations having but one Object, The *Publique Good*, nor but one Courſe to attain It, *mutual Agreement*. The neceſſity of the work will not only require a Conformity in their Faculties that mannage It, But their Wills, which at the Entry of our *Council* are therefore enjoyned to put off all Appearance of Emulation or Inemnitye; though their Natural Infirmity cannot diſpence with the not re-aſſuming Them in the Iſſue. In imitation of ***

But yet not ſo nice of Apprehenſion to ſhock anothers opinion in *His* Oppoſition, as to forfeit the unequal Reſentment of *His* own Reaſon. In the Proſecution whereof *He* ſhould put on as much undaunted Reſolution, as may neither ſmother nor misbecome His Sence in Paſſion, whereof to avoid the very ſhadow, He ſhould neither Anticipate, nor yet Neglect *His* Order in Delivery.

In His Agitations with Forreign *Miniſters*, we ſhall allow Him to aſſume more *Majeſty*, in Reſpect of the Dignity of the Nation he repreſents. And more Art, in Regard of the divided Intereſts, each Part obliquely may perſue. But ſo that the *Former* be ſweetned with a Civil Modeſty. And the Later ſhadowed with a ſeeming Indifferency, reconcileing both their Repugnances to ſuch an union, as the ſplendor of *That* may not reſtrain the ſuppleneſs of This. Nor the Dexterity of This Eclipſe the Luſtre of *That*.

His Comportment toward Solicitors of *his* proper Nation will require no leſs Caution. There being Two dangerous Extreams Herein to be avoided. The Diſaffection of the People, and the Jealouſie of His Peers.

To ſhun the *Former*, He muſt, in the Reception of *His* Solicitors, neither take on a ſow'r Auſterity to counterfeit affected Majeſty; Nor yet a ſullen neglect to borrow ſeeming Gravity. He muſt not aſſume that unbecoming Masque of vanity, to pretend *Himſelf* more conſiderable than the Reſt of His *Aſſociates*, by affirming *Himſelf* over-burd'ned with an unequal ſhare of Affairs, to ſhake off their Addreſſes, nor yet acknowledge ſuch Preheminence in Power as to invite Them.

He muſt ſtill in *Himſelf* be wary to preſerve in *Their* Eſteem the Dignity of that *Society* to which *he* ſhall officiate. The People judging onely of the Body by the Parts thereof. His Acceſs therefore Muſt be Facile, His Aboard Gracious, His Entertain Agreeable, and Cloſure Satisfactory. If not in His Endavours, yet in His Advice. But not to ſet ſo high a Rate on either, as if he drove a Trade in Civil Tyes, and made ſo reverent a Convention, but a pub-

liqne Marte, for Commerce onely, but of private Interests; nor yet to value either at so mean a Pitch, as to seek out occasion to dispense the same. *His* Dispatches must not be tedious nor precipitater That (instead of Relief) were to adde one Burden to another. This (instead of advancing) were to betray the success of a Cause in Manner of the Manageing.

In the Contexture of all which, He must use such Address, as he approach not to the next Extream; becoming Popular. Our *Minister* may be too forward in the persuit of fair Transactions of this Nature; There being as much danger in serving of a People as a Prince too well, The next step being followed with the Necessity of his Ruine; the secret Envy of *His Associates* suggesting straight a Jealousie of the Common-welfare, *This* in the *Athenian* State lent Ground to the Establishment of a Law, entituled *Ostracisme*, which was for Term of years a publique Exile of such *Ministers*, who in the happy Issue of eminent Enterprizes, became too Glorious in the Peoples sight, o're-shadowing thereby the failing Lustre of the whole Society. Such and the like Rewards have often crown'd the Triumph of a Glorious Servitude, as may appear in the unequal sufferings of *Scipio*, *Pericles*, *Alcibiades*, and many other Worthies.

And where such Laws were not of force, many such *Heroes* have become the tragique *Subject* to Envies secret Practices. Though some, perhaps may here be instanced, have by such Artifice supplanted Princes, and subverted States, as *Bullingbrooke*, and others. And some the Means hath failed in the Attempt thereof, as the *Guises*.

X. *Of His Speech.*

THis *Subject* may lead a wary Observation (endued with Capacity to judge) not only to an Inspection of the exact Image of the Mind, but even to the secret sources of Her motions (distinguishable not often to the Owner) more perfectly, then the most nice *Idea* extracted from the Actions; the hidden springs whereof Custom and private Ends do often smother in a confused Heap of Circumstance, whose consequence rests still concealed in the Intention. This being the more immediate Instrument the Soul imployeth on exterior Objects. Which in Respect of our *Ministers* Society, being contracted under Three Heads of Communication, as is expresst in the preceding Subject; we will direct our purpose only to appropriate this *Principle* unto our former Model.

First, in Relation to his own *Society*, the Object of His discourse being only Single, the Method thereof must be only Simple

ple, or without Art. Truth wants no other Ornaments to affect her Audience, then *Her* proper Beauty. What moves the Senses but obscures the Reason. The Flowers of Rhetorick are commonly but the suspected Fardes unto siniſter purposes, whose Impostures are inconsistent with the Nature of our *Ministry*, which cannot admit him for a perfect Workman, as some have said of Orators. *That makes Great Things small, and small Things Great, no more then that Artisan his Crafts-Master should make a Shooe too Little or too Big for the Foot; but he that makes it Fit.* To which perfect structure of Discourse we will lay down a Tripple Baiz to form it on. *Clear, Vigorous,* and *Pertinent.*

Clear, or Intelligible, in regard Ambiguity may be Mother of Mistake, Mistake the Nurse of Error, which may encounter such a Consequence, may make the Default irrepairable.

Vigorous, in that *His* Arguments thereby, in present, may meet less Opposition; in Future, win more Credit. And in the sequel of either, procure a speedier Expedition, which must not yet be formed under the Semblance of an insulting Imposition; that were to blemish Truth's attractive Grace with *Civil* Tyranny, not leaving others Sence the Liberty to agitate, and so retard Her sought Reception, if not repulse Her at the first Aboard in Dislike of Her Appearance; All men affecting such a Freedom in their Judgements, as may in their Assent to Truth's Decree, entitle Them to equal share of Right in Her Discovery.

Pertinent, to avoid a prolixe Circumstance, which will not only waste Time in Delivery, and in the Order of Reply expedient to Particulars; but may produce unuseful Matter to new Arguments, extending so the *Subject* beyond a due Proportion in the Managing, which being a stop to new Occurrences, continually are flowing in the Concourse of Affairs (whose weight implyes an Exigence in Expedition) will press for timely Issue, or swell to such a burd'nous Multititude, Necessity will inforce some part Thereof to be neglected or omitted.

In *His* Transactions with *Ministers* of Forreign States, *His* Discourse may assume like Form, as *His* Demeanor to Them before specified, more Majesty and State to the united *Body*, in Honour of His proper Nation; more Art and Courtship to the particular Members, in favour of *His* secret purposes; Yet to the former, not with so rude an Arrogance, as is expresst in *C. Popilius Embassie, who on his first publick Audience, making a Circle round about Him with his staffe, required of the doubtful Assembly (demanding time but to deliberate on their Answer) their plain and present Resolution e're he should pass the*

Limits

Limits of his form'd Circumference. Nor to the latter, with so suffering a Civility, as to oblige another Nation at expence of the Interests of his own.

To the people of his own Jurisdiction the Emphasis of his Discourse may vary Forms, as their Addresses to him, or his to them, directly or obliquely, may concern the Nature of *his Ministry.*

Their Addresses to them in Particulars on Private Agitations may be received and returned in a plain method of Delivery, most proper to the Nature of the Subject, and the Capacity of the Manager thereof. If their Addresses to *him* be in Multitudes, and for a general Cause, *his* style must have more winning ornaments to become plausible.

If *his* Address be to particulars obliquely tending to a Publick Cause, *his Language* may assume more Majesty to lend it more Authority.

If *his* Address be to a multitude directed only for the Publick Benefit, *his* Tongue may use the choicest Grace of Rhetorick to stir the Passions of the Populace: yet must *he* not exceed the Limits of his Purpose in his Promises, lest the Necessity of their Omission should procure Hatred or Disturbance to the State, Ruine, or Danger to *himself*, having thus rais'd a Spirit *he* cannot lay again. It will be safer perhaps and more facile to win the Inclination of the Multitude, by tickling of them with their own Applause; yet herein also must be Caution, since Their incited Passion, known but in Extreams, should or exalt *him* or themselves so high, to hazard their own Safety, or the Publick Peace, drunk with the fury of their wilde Distemper.

But happy are those Nations, That utterly hereof abolished the use, whose subtle Contagion too often but foments the secret Fuel of Incendiaries to the Emotion of such Dangers may subvert a State.

XI. *Of His Fame.*

THe Harmony that issues mutually from the Concurrence of All the foresaid Attributes in their Impression on the Fancy of the Vulgar is *His Reputation*, to which we have given Order in the sequel of *His exterior* Properties, without Reflection on the *Interior*, in regard these are the only Springs which lend Emotion to the Resentments of the multitude, who have nor will, nor yet capacity to search into the *Latter*, taking up their Opinions only on the publick Faith, and rather hazard their credit (though to the General Damage) then be at expence of a nigher Trial.

How

How this method of proceeding should form a firm Foundation to the Establishment of Truth, we cannot apprehend, though confirm'd and authoriz'd by that powerful warrant, *Vox Populi, vox Dei*, *The voice of the People is the voice of God*, Which rather is so to be interpreted, in Respect of the irresistable force Thereof in executing, then in regard of a supream faculty in Determining. For since It is unquestionably manifest, that not one of a thousand (taken severally) is endued with Capacity to distinguish of the *Truth*. Why should we then esteem them (if united) competent Judges to *her* Evidence, making the result of their voice in general to be of weight, which in Particulars can no way be considerable.

To which perhaps may be alledged, That the multitude receive no notions for positive Truths, or warrant of Their Own Sufficiency, but from the Tradition of the choicest Judgements, approved in the Agreement of succeeding Ages. In Objection to the Inference, we may reply, That when we shall exactly weigh the common Heresies, that hereby have been introduced in Repugnance to *Divine* Principles. The absurdities to *Civil*, and the Fallacies to *Natural*: We shall finde Reason to believe, that even in those Ages, and over those Judgements, the Passions of the Multitude have had too forcible an Influence in overswaying of Their Sentences, to admit Them for Authentick Generally. Moreover we may observe, in most General Councils, that men of greatest Wisdom and Integrity, have suffered the most obstinate Oppositions in their Arguments, either through Envy, Ignorance, or Inemnity, or else in favour of some secret Practices: which though examined with more freedom and Impartiality in remoter times, yet neither then want corrupt or perverse Champions to shelter Their Defects: so that the Multitude, in the doubtful strife (suspended from definitive Censure) incline to that, holds most Advantage with their proper Interests, assuming still the Authority to judge. From whence we may collect, That blustering Fame is but a doubtful Light to yield safe conduct to our Purposes, not only in respect of their premised Insufficiency to judge, who forms her Nature, but in regard the vitious multitude can not, without impeachment to themselves, approve of such are most to them unlike: so that a wise and upright man may have just Cause ev'n to suspect himself in their applausive Testimony: to which may also added be, the common Homage, most tender to the sense and proper Interests.

The perfect'st test to the allowance of our *Minister*, will therefore be the secret Approbation of the vertuous, wise, and unimteressed Publisher: And because all these three Attributes are to meet in one *Subject*, all these three Faculties must concur

in the distinguisher: but lest we should anticipate our Order, intrenching here too far upon the Rights more proper to another Theam and Place, we will desist to pursue further this our Argument, and here but only weigh what Influence a fair Renown may yet contribute to the advantage of *His Ministry* following the Distinctions of our preceding Patterns.

First in Relation to *His* own *Society*, It will lend weight to His Advice, if not Authority; Subject for exact Discussions, if not ground for doubtless Receptions. It will make way for the Assurance in the Delivery of *his* Purposes, for vigour in their Prosecutions. It will farther keep *his* Faculties assiduous, vigilant, and cautious in their Exercise, in jealousie of their Honour.

In Respect of Forraign States, the Glory of *His Fame* (lending more Lustre to His *Society*) will to Confederates endear an union, Restrain publick Breaches, Oppose private Practices to Enemies, make our Designs redoubtable, advancing to their Issue ere they have a Being and probably unnerve their Counter attempts in Diffidence. The very Fame of *Alexander*, when living, kept not only *Rome*, but the wide distant world in Awe. Who, without Forraies farther tryal, resolv'd unanimously all to become His Vassals, and hold the Civil Jurisdiction of their Governments in *Fealty* of Him. To which Intent Ambassadors were from all Parts designed to *Babylon*.

In Reference to *His* proper Nation, a high *Repute* will yield a plausible satisfaction to the People in the Establishment of severe Laws, a chearful suffering in the necessity of burdenous Impositions, flourishing Hopes of the success of their intended Enterprises, reviving Courage in the Dejection of publick Disasters. Check the springing Fury of publick Emotions, suppress the progress of private Practices, and preserve the whole *Society* in Honour and Credit with the People, who will thereby excuse their publick Failings, lending a fair Construction to their Endeavours in the miscarriage of their undertakings.

XII. *Of his Interior Endowments under four Principles.*

I. *Of His Prudence.*

HAving figured the exterior Endowments with their Coherents to *His* Person, so far as may have Reference to *His Ministry*, we will pursue our Order, and make our Entry on the Distinction, and uses of the Interior, under the extent of four Principles, *Prudence*, *Justice*, *Fortitude*, and *Temperance*.

As

As all other Virtues are but subordinate Ministers to these four, so the three latter of these seem to have an equal Dependence on the first, *Prudence* being the general Rule and Compass by which they all do steer their Courses: and no longer retain their own proper Nature, then contain'd within the Bounds of *Her* Prescription. *Justice*, if severe, becometh Injury; *Fortitude*, if unrestrain'd, Temerity; *Temperance*, if not qualified, Excess. So that their true Existence is very properly said to be seated in the mean, which to distinguish, Prudence suspends the Ballance to the Counterpoise.

Antiquity distinguished this Attribute, under the Figure of a youthful Virgin, viewing intentively her own Form in a Glass, implying the exercise of Wisdom to consist only in the Inspection of our selves: According to the Inscription on *Apollo*'s Temple, *Nosce Teipsum*; In which Ordinance *Plato* affirms *Prudence* only Constituted: and *Aristotle* farther verifies the same in *Xenophon*.

Not to reflect upon *her* Nature here as a Cælestial Attribute, but to consider the Force of *her* Faculties in so frail a Continent as Man. *She seeth the evil afar off, and avoideth it.* She lendeth a Stratagem to the success of Arms, and Council to the Establishment of Peace. She lades the Industrious with Riches, and the Humble with Honour. She discovereth the secrets of Nature, and directeth them to their proper ends. She anticipateth the Designs of the Fraudulent, and involveth them in their own Snares. She distinguisheth the season proper to every action, lending them so, not only Grace, but Success: From the Aptitude of time, hastening the Maturity of Her Purposes: She searcheth into the end of Her own Being, and not to frustrate the intention of Her Maker, applyes her self with Diligence to the use. She communicateth Her Treasure without Scruple, and enlargeth Her Store by a liberal Dispensation. Safety is in Her left Hand, and length of Dayes are in her Right. She ravisheth Others with Delight, and satiates her Owner with Joy. But to insist longer on the Description of Her Character, were to detract from the Glory of Her Essence, prescribing Limits to Infinity. We will yet view Her Ornaments with more proportion to our Faculties. Considering Her Lustre in Reflection on our *Subject*: And though Her use may seem imply'd in Her Distinction, yet we will farther in some particulars appropriate Her Graces, as peculiar Ornaments to our *Ministry*.

Prevoyance or Foresight, is one of the most excellent Faculties our *Minister* can be endu'd with, to the due Execution of *His Ministry*. We speak not here of it, as a supernatural Gift of Inspiration; Nor as an Artificial Light of Divination. (The blind Zeal of the Pretenders to *That* hath made the

the One scandalous. And the ignorant Presumption of the followers of *This*, hath made the Other Ridiculous) But a Rational perspection of ensuing Consequence gathered from the Collection of cohering Occurrents, proportion'd to the Capacity of the Matter and the Managers. Thus did *David* by *Hushai* subvert the Council of *Achitophel*, in Reference to the heady Folly of His son *Absolom*, coincident to *His* vanity and Youth. Thus *Alexander grounded His Stratagem on the superstition of the Indians, who having stop'd his Passage by Prepossession of an inaccessable Mountain, hired some stout Mountaineers to ascend the same in dissolute and inaccessible Places on the back of His Enemies*, Where being arrived to make great fires, which signal discover'd to Alexanders in the plains, He put his Army in Battalia, as if he had intended to assail His Foes. But as his Army march'd, a Herauld sent before to summon them to yield, and not to be too confident in the Advantage of the Place, which would betray them to their Ruine, thereunto shewing them many dispersed Fires, were to their Terrour made on every side. The Indians believing this unexpected Force was sent from Heaven in favour of the Assailants Purposes, struck with much Terrour, surrendred both their Persons and the Place. So *Scipio* reflecting on the immeasurable Avarice and Lachery of the *Carthaginians*, withdrew *Hanibal's* irresistable Forces from *Italy*, by transferring the War into *Affrick*.

To which may possibly be objected some examples, that having had the like Grounds, have not had the like happy Issues.

In Answer whereto we may infer, that it can be no Reproach to our *Minister*, to fall under the conduce of this Natural Light, since *He* is only Master of His Councils, not of their Events.

Another Inherent of our *Subject* expedient to our *Minister* is *Insight* or a sharp *Perspecuity* in Judging, without Relation to the Future, or the Precedent, but onely from the present Sense and Circumstance, searching into the Secret Nature of Occurrences. Thus was enlightned the famous Judgements of *Solomon* and *Daniel*. Thus was discovered the Imposture of the pretended born Blinde, miraculously healed at *Dijon* by *Louis* * * * * in the tryal of his judging of Colours, which though His restored Faculty might discern, time must have endu'd him with Capacity to distinguish.

Of this Endowment our *Minister* will have daily use, not only to the Discovery of sinister purposes in the Intercourse of Affairs with Foreign Ministers (whose usual Commerce is but an honourable sort of Imposture, but to the enlightning of private practices ev'n in his own *Society*

In-

Invention is another of our *Subjects* eſſential Attributes, expedient to our *Miniſter*, which ſeems to ſpring from the Concurrence of *Her* two former Ornaments Prevoyance, and Perſpecuity. This Faculty hath two Objects of an Engineer, which meet in one Center; Proper ſafety. *Offenſive*, in open or ſecret aſſailing of an Enemy. *Defenſive*, in open or ſecret guarding of *Himſelf*: Neither of which can work ſecurely without the other, who ſo tranſports His Force to the Prejudice of his Foe, as to omit his proper ſafeguard, lies naked to his Enemies Offence: who ſo intentive is on his ſecurity, as to neglect Attempts, arms but his Foe more ſtrongly 'gainſt Himſelf. Plot and Counter-Plot muſt wait upon an Enterpriſe to crown the undertaking with ſucceſs, though ſometime they may ſeem divided: as *Eumenes, Who ſeeing many Billets were in his Camp diſperſed by his Foe, to invite with great Rewards ſome greedy Temper to contrive his Death, aſſembled all his Troops by publick Proclamation; where highly exalting their approv'd Fidelity to Him, with tender of a ſeeming gratitude: He publickly affirm'd, thoſe Billets ſo diſperc'd, were but the ſecret Machines of his Love, by him contriv'd to gather nigher Proofs of their Affection.*

To make all which Concurrences ſucceſsful in their uſe, we muſt inveſt them with another Ornament, A perfect faculty in the Election of proper Inſtruments and Seaſons.

In due obſervance of the *Former*, many Princes endued but with ſmall ſufficiency, have often happy made their undertakings: And many that have had extraordinary Endowments, failing herein, ſubverted often have the Courſe of well digeſted Enterpriſes.

To graſp with Time for fair occaſions, muſt be the Practice of an Induſtrious and Vigilant Temper; ſuch as *Cæſar* was, who put forth to Sea for *Affrick* in a Storm, where he alone was to become expos'd amongſt his Enemies, having as then no Party formed there. In all his Enterpriſes his Diligence ſtill anticipated his Enemies Apprehenſion: Many eminent Perſonages in This defective have thereby fruſtrated their painful perſevering, and otherwayes ſucceſsful Purpoſes, as *Hannibal*, whoſe frequent failings herein, had form'd a general Obſervation peculiar to Himſelf, *That he well knew how to o'recome, but not how to make uſe of Victory.*

XIII. *Of Juſtice.*

THis Attribute is the Ground of all Civil Commerce, being the Rule whereby all Laws what e're pretend to be eſtabliſhed. The old Law repreſents her Character under a ſe-

vere Injunction. *An Eye for an Eye, a Tooth for a Tooth.* The Goſpel under a gracious Precept, which entitles every man to a Faculty of being his own competent Judge. *Do unto others, as you would others ſhould doe unto you.* Antiquity figur'd Her Model under the form of a young Virgin, holding a Sword erected in one Hand, and a Ballance ſuſpended in the Other. Her Eyes hooded with a Scarf: In which Poſture amply enfolding the Myſtery of her proper Nature. The perſon under which ſhe is ſhadowed, intimating, Her ever flouriſhing and attractive Grace, implyed in the fertility and beauty proper to that Sex. Under the three other Diſtinctions is inferr'd the mutual Relation and Agreement of all Virtues neceſſary to the exact conſtituting One Another. *Prudence* ſeems intentive on the Suſpenſion of the Ballance to diſtinguiſh of which ſide the weight of Right inclines. *Fortitude* hath arm'd Her with a Sword, and Courage to the Execution of a double *Miniſtry*: Puniſhment and Protection. Many, who only have conſidered this Inveſture of Juſtice, have erroneouſly figured to themſelves, that Tyranny and Violence have laid the firſt Eſtabliſhment to Government. This may probably be true, in reſpect of the licentious Multitude, who ſtill diſlike to have the unruly Motions of their wills reſtrain'd. But when we ſhall weigh the Faculties neceſſary to reduce their innate ſtubbornneſs to a decent Preſcription, we cannot but aſcribe to Rule, more noble Principles. The conduct of the Prudent united to the Aid and Aſſent of the vertuous.

Temperance, leſt the impartial Sence ſhould over-ſway the Judgement, intercepts the courſe thereof from all exteriour Objects with a vail.

But e're we ſhall begin to appropriate theſe faculties to the uſage of our *Miniſtry:* It will be neceſſary to remove one Interjection, will elſe make void the preſent Ground of this our Argument. Though time, general Practice, and the univerſal Profeſſion of States have formed (as an authentick Axiome) the violation of *Her* Order in Competition with the Conſequence of their Affairs (as *Mountaign* ſayes) *After the model of Phyſick, preferring the uſeful before the Honeſt. Plato* ſeems to imply no leſs implicitly, *deſiring only with Fortitude and Temperance, the Advantage of the Form in the Magiſtrates of His Commonwealth.*

Yet we may, without the Cenſure of Vanity or Preſumption, attempt to make Diſcovery on the Defects of the Foundation, under Authority of the *Wiſeſt, Who, this affirms to be the ſureſt Baſis to a Government.*

Juſtice, in relation to humane Society, having three differing Objects, may have three ſeveral Diſtinctions, *National, Civil*, and *Natural.*

1. *Nati-*

1. *National Juſtice* regardeth the Cuſtoms and Rites allowed or contracted between Nation and Nation.

2. *Civil Juſtice*, the Cuſtoms or Rites proper to a peculiar Government.

3. *Natural Juſtice*, the innate Cuſtoms and Rights between Man and Man.

How ſacred and inviolable the *National* are to be obſerv'd, may here be inſtanced in the *Iſraelites* proceeding with the *Gibeonites* (deſigned by Divine Decree to Ruine) and their League with *Them*, but Surrepticiouſly acquir'd. How ſeverely and viſibly the Breaches Hereof have been miraculouſly puniſhed, is evidently diſcovered in the great Battle at *Varna*, between *Amurath* the ſecond, and *Valdiſlaus* King of *Hungary*.

In Oppoſition to this Example, may perhaps be inſtanced the proſperous Iſſues of the two *Punick* Wars to the Advantage of the *Romans*, by them injuriouſly commenced.

In anſwer whereto (omitting to inſert how ſuch ſucceſs did but contribute to their approaching Ruine, extending the Limits of their Government beyond a due proportion, enforcing them thereby to ſinck under the Burden of their proper Greatneſs.) We may alledge, that the *Almighty*, who from Mans proper Evils formeth his peculiar Good, may (as we ſee in the Myſtery of Our Redemption) ſuffer Malice a while to Triumph over Innocence, for ſome Benefit or Puniſhment to a Nation, ſecretly enfolded in the Conſequence of Divine, Civil, or Natural Cauſes, ſcrutable only to his all-ſeeing Wiſdome, who directed it. But withal, the Inſtruments of ſuch glorious Miſchiefs (though ſhadowed with the faireſt Luſtres) ſeldom ev'n Here eſcape a juſt reward. Witneſs the miſerable and ignominious Extirpation of the *Jews*: With the woful and ſudden extinction of *Caſars* Conſpirators, and their Families. The Cruelty of the *Firſt* ſheltered by the pretended Defence of their Laws. And treachery of the *Other*, ſhadowed with the intentional Recovery of their Liberty. *Civil Rights*, Though the *Romans* (induced by the foreſaid *Principle*) have, ev'n for Baſe Ends, ſubverted; as appears *In the Re-infranchiſement of divers Cities for great ſummes of Money from the hands of* Sylla, *by Ordinance and permiſsion of the Senate: which after falling in Queſtion, the Senate adjudged taxable as before; and the Money ſo imployed for the Recovery of their Freedom, to be accounted loſt to them*: Yet ſhould they be inviolably preſerved by their *Miniſters*. Firſt, in regard that the Majeſty and Purity of the Laws are thereby better maintained. To which purpoſe was grounded *The ſtability of the Decrees of the Meedes and Perſians*: Though, as irrevocable, not without danger of Damage in the Conſequence.

quence. That Council or Preſcription being evil in it ſelf, which can no way be changed.

Secondly, In regard of their particular Intereſts, that mannage it, inherent to the Publick: Who ſhould in Reaſon have a jealous Circumſpection not to give way to the Infringment of a Law in being, though for the publick Benefit, ſince all mens Lives and Properties therein involv'd, from ſuch a Precedent, *They* in the Future may receive like dammage.

The courſe of *Private* Rights hath found more Favour with the *Romans*, though to the publick Prejudice, yielding a ſlave Permiſſion to conceal his Maſter, though under the Conviction of High-Treaſon, without Impeachment. *Epiminondas* (though poſſeſſed with the higheſt and moſt noble Paſſion for the publick Good) eſteemed him a wicked Man (though never ſo good a Subject) that ſpared not in Battle 'mongſt His Enemies, His Friend and Hoſt. *Manente in Memoria etiam in Diſſiduo publicorum Fœderum privati Juris. Ev'n in the ſtrife for Publick Rights, retaining ſtill the memory of private Tyes.*

Et nulla Potentia Vires.
Præſtandi, ne quid peccet amicus habet.

Much more forcible and diſpenſable from the Proſecution of Publick Advantages, are *Natural Rights. Non enim Patria præſtat omnibus Officiis, & ipſi conducit pios habere cives in Parentes. Our Country is not advantaged by every Office, It being profitable thereto to have Citizens pious to their Parents. We muſt rather approve of* * *that Fathers Example: Who, in Favour of his treſpaſſing Son, parted with an Eye to the Satisfaction of that Law, he had made againſt Adultery.* Then of * *His who cauſed his Son to be put to Death for Infringing His command in his Abſence, though thereby inveſted with the ſpoils of His Enemies.* As for *Jephtha's Sacrifice to his raſh Vow*, we may rather look on it, as a juſt reward to his Impiety, then a warrantable Tryal of his Zeal.

* Zalucus Locenſis.

* Poſthumus Dictator

* Manlius Torquatus.

This Rule of *Right* may ſeem yet farther to extend it ſelf, ev'n on the Confines of Hoſtility (where the very Image of *Juſtice* ſeems effaced in every Delineament) ſummoning Mans captiv'd Reaſon to the Appeal of common Decencies in Humanity. On this Intent was grounded a cuſtom among the *Lacedemonians* to ſacrifice to the *Muſes*, on ſetting forth to War, the Martial Fury might, by their aſcribed Mirth and Sweetneſs be temper'd and allay'd.

But to return to application of *Her* former Diſtinctions to the

the uſage of our *Miniſter*, forming his will to the exact Preſcription of theſe *Her* differing Objects. Though the Nature of *His Miniſtry* may ſeem not fully to extend unto the execution *Thereof*, as proper only to His Subſtitutes. Yet ſince ſuch act but under *His* Commiſſion, we only *Him* conſider, as the firſt Mover of ſuch Inſtruments.

Under the ſhadow of the three former Diſtinctions were figured three Faculties neceſſary to the Exerciſe of *Juſtice* in her ſeveral Objects. A clear Intelligence of the Subject agitated. Power and Courage to Puniſh or Protect. An unintreſſed and impartial Inclination to educe either into perfect Action.

1. To the Acquiſition of the *Firſt* Faculty, it will be neceſſary not only to make an exact ſearch into the Litteral and Viſible ſence and coherence of a Subject in Diſcuſſion, but therewithal to ſound the ſecret ground or purpoſe of ſuch a League, Covenant, Contract, Law, Decree, or Act whatever from the Collation of Times, Circumſtance, and Perſons, in which, for what, and by whom they were paſſed, enacted, or Confirmed. It being inconſiſtent with the Dignity of a Legiſlator, to catch at nice Terms, or Diſtinctions to ſhadow an evaſion from the true Intent. Or to leave ſuch Incongruities or Obſcurities in thoſe Decrees, Acts, or Commiſſions, formed by his Council, as may lend appearance unto ſiniſter Practices in Ambiguity, which may inſtead of Aids to the oppreſſed, become ſnares to the Innocent.

2. The *ſecond* Faculty, conſiſting of differing parts, muſt be aſſum'd from diſtinct Subjects. Power from the Authority under which *He* doth officiate. Courage from *himſelf*, to put that Power indifferently in Act; Both which we will conſider as immediately contingent to His *Miniſtry*, properly and peculiarly ſeated in Advice. In Delivery whereof, *He* may in Right, challenge an unqueſtionable Priviledge of Liberty, being authorized by the Election of a Prince or People, and the Reception of *His* own *Society*; not erring from the Propriety of Time, Circumſtance, and Order. A Conſultation elſe ſeems indirectly managed, concluding, or Impulſively, or Omiſſively: And our *Miniſter* there poſited but a Cypher to lend more value to the Ordinance. It will appear a groſs piece of Mockery, to accept of any One to Council, but onely to affirm what others ſhall propound: Nor can the Advantage of Number claim a Right of Oppoſition, becauſe it may a Right of Inſtitution. The Integrity of that Vote muſt paſs but for ſuſpected, endeauours to avoid the exacteſt Trial. And Truth may ſometime ſo happily expoſe her ſelf unto One Mans Conception, as *his* evidence in Her Diſtinction may overſway the Cenſure of a Multitude. *His* Power to agitate thus unpreſcrib'd,

will lend Him yet but ſmall Advantage to advance the publick Intereſt, unleſs *he* can attain like freedom from *himſelf*. If either the Gravity, Preheminence, or Reputation of others ſufficiency united or divided, fetter with Awe the Faculties of *his* minde in a ſervile Subjection, Dependence, or Relation. He not only thereby will betray His Truſt, but ev'n degrade *himſelf* of This *his* Dignity.

3. The latter Faculty is the ſuſpenſion of the Senſe from all exterior Objects. From this Obſcurity is *Juſtice* brought to Light: It will little avail the Diſpenſation of Rights, to be indued with a Judgement to Diſcern, and Power to determine, if the corrupted will diſguize the Impreſſion. How far the Publick welfare ſhould weigh down all private Intereſt, is figur'd to us in the Integrity of *Regulus*, *Who, being a Priſ'ner to the* , *had freedom on his word to repair to his Countrey, provided he would move the Senate in their Behalf to an Accord, and failing thereof to return to them.* Regulus, *on the firſt overture of the Propoſition to the Senate, finding them in Reſpect of his Safety to incline to an Agreement with their Enemies, laid open all the Damages that would thereby enſue unto the State, exaſperating them with earneſt Paſſion to reſtore the glory of their Arms in Execution of their Enemies, which being aſſented to, They nevertheleſs oppoſed his Return, leſt the wilde fury of the barbarous Foe, hereby incenſed higher, ſhould act the vengeance of their Rage on him. But he not ſo to be detained, returning to their hands, became a Martyr to the publick Intereſt, and his private Faith.*

XIV. *Of Fortitude.*

DIvers Nations have held *This* Endowment in ſo high an Eſteem, that they have not onely given *It* the Preheminence of all Civil virtues, but, under the ſole Diſtinction of *This*, have farthermore implyed All the Reſt; Among which the French intimating a Perſon indued with General Worth, inſtyle Him *valiant*, after the manner of the *Romans*; who lent *virtue* Her Denomination from the Etymologie of *Force*.

Whither this Cuſtom proceed from the natural Propenſion of thoſe Nations to the Exerciſe of this *Faculty*, or the proper uſe *Thereof*, is not eaſie to determine. Yet is it probable that this was the Firſt vertue, which viſibly imparted Her ſelf to mankinde, affording one advantage o're the other. Others, Contrariwiſe, conſidering the uſe Hereof, in Reference onely to exterior Objects, have ſo farr detracted from the Excellence of Her Eſſence, as to lend Her at moſt, but a conditional *Being* in Competition for Preheminence with the *former virtue* Affirming, *That there were no uſe of Fortitude, if Men were Juſt.* An-

Antiquity distinguished, *This Faculty* under the Figure of a Virago, armed with Casque and Cuirace, a Javelin in *Her* Hand, the blunt End thereof posed at Her Foot; which Posture some confined to a fixed Station.

The Person under which the Mystery of Her Essence is shadowed; though of the same Sex, the other were figured: yet (besides *Her* exterior Investure) seems to have some thing in *Her Aspect*, distinguishable from the Rest, peculiar to *Her* Quality, implying a more Masculine Temper.

Her Armature, being of differing Nature, Defensive and Offensive, inferreth distinct uses, in Reference to one only Object, proper Safety.

The Position of *Her* offensive Arme implyeth *Her* Nature to be Accessably communicable.

The Stability of Her Station would intimate the Constancy of Her Resolution. This latter Distinction, *Socrates* in *Plato* condemns, deriding *Laches*, the Inventor; *Askt, if it were then Cowardise to beat an Enemy in yielding him our Place? alledging farther Homer* for Authority, *who applauds* Æneas *for his Dexterity in the Science of Retreat.*

Some have yet farther lent a Distinction to *Her* proper Nature, figuring two Kinds *Thereof*, *Philosophical* and *Military Fortitude*; yet, if we shall consider the *Latter* without Dependance on the *Former*. We must so far dissent from the approving such a Difference, that we cannot so much as entitle the *Latter* to a Participation in *Her* Nature. Since we see many Men (more through the Advantage of their Constitution, Passion, or Custom, then the benefit of their Reason) have assumed such a Habit of Resolution in the Exercise of Arms, as seldom formed is, by the most regular Discourse, the proper seat of *Fortitude*; which can admit of Ignorance nor Vice for an Associate in *Her* Faculty. The *Latter* was a stain to *Cæsar*'s Magnanimity, encountring, if not intending the Ruine of his Countrey.

Epaminondas's Practice in Arms attained onely a Capacity really worthy of so high an *Attribute*; whose exercise herein encounter'd the most Plausible and Legitimate Object. The Safety, Peace, and Glory of his Countrey, disjoyn'd from all peculiar Interests, so little took with Glory, or Reward, he always was too scrupulous ev'n to avoid Their shadows, assuming an affected Poverty.

If we shall yet farther weigh the Quality of *This* Distinction, as proper onely to the use of Arms, we may positively affirm *This* Function to be only a distinct Subject of *Her* Exercise, no distinct property in *Her* Nature; which arms the Mind with a constant and uniform Resolution against all the

the assaults of Fortune, as well as the weapons of our Enemies. Yet in Respect the course of Armes (lending a more ample Theatre to *Her* Action) exalteth the Perfection of *Her* Essence, rendring Her Effects more communicable, we may allow *It* to be the most eminent Subject, whereon *Fortitude* can properly be illustrated.

Which *Subject*, though not properly inherent to the Function of our *Minister*. Yet since it accidently may associate It, we shall desire, that *He* may be indu'd with Faculties of Mind and Body proper to the use *Thereof*; not so much for the ostentive Tryal of *This* His splendid *Attribute*, as in persuit of many other Advantages, redounding to the publique Benefit, which probably may ensue *His* Managing thereof: Being not only of approv'd Fidelity to warrant *His* peculiar undertaking, and of a General sufficiency of Mind to Order it; but by *his* frequency in Council, endued with a clear Intelligence, ev'n in the secret Mistery of publick Purposes, more perfectly to guide *His* Enterprize.

To appropriate more peculiarly *This virtue* to our *Ministry*, We will consider the joynt *Society* of this our *Civil* Frame, as the Inspiring Soul is to the exact composure of the Body. Thereby more visibly to find the proper uses of *Her* Faculties, under the Constitution of *Her* former Figure. Admitting it for granted, that *This*, as all other virtues whatever, must first be rationally digested into a Habit of the Mind, before it can be properly educed into useful Practice. The proper seat of *Fortitude* from whence still issueth Influence to animate the Members to *Her* Exercise, being (questionless) the joynt Concurrance of the Interior Faculties of the Soul to a Rational Prescription, resulting from Discourse. Forming This a Parallel to our *Society*, as the first mover of our *Civil Body*, we may conclude; The joynt Agreement of their Consultation immediately necessary to the common Safety, the sole Object of *His* Eminent Virtue.

Persuing the Parallel in *Her* exterior Investure, we shall meet with some useful Notions in Reference to our *Civil Structure*.

The principle Parts of *Her* Armature, we will first consider in their Nature, then in their Order or Position; which being only Defensive, informs us, that the most Natural and just Cause of taking Arms, is the opposition of the Assailant.

The Order or Position Thereof intimateth, what Places in a Common-wealth are chiefly and solv to be fortified. The most Noble onely; as the Head, the Seat of Council, and the Breast, The Receipts of Commerce.

The other part of Armature we will revise according to the

to the Nature, Number, Figure, and Fashion thereof.

The Nature Thereof being only offensive; Implyeth that a State is but halfe secured, that standeth onely on Her own Defence.

The number thereof being only single, inferreth the due Proportion of offensive Arms, in respect of the Defensive, which are double.

The figure thereof being long, implyes the proper use of Arms of This Nature, ought to have extent, remotely managed from our *Civil Union*.

The Position thereof seated in a passive Posture, inferreth, That a Nation ought to be invested with Arms of this Nature, as well for Ornament of Majesty, as Use.

To fashion yet *This* Vertue to the peculiar usage of our *Minister*, whose advice only being to us of use. The exercise of This Virtue doth herein only tend to keep the source thereof (*his Reason*) clear untroubled and unblemished. As the general Agreement of a Council to *her* prescription, can only make a Consultation useful. So the mutual concurrence of His Interior Faculties to *her* order soly contributes to the exact forming of *His* Judgement. This is the proper seat of Council, and as the noblest parts must first be fortified against the assaults of all Licentious Passions, the only Enemies on which our *Minister* shall, in *his Function*, have occasion to exercise *this* faculty, to keep His elevated thoughts in a tranquil serenity. The Fancy and the memory *hereto* communicate, are (as the Parts of *Civil* Commerce) next to be secur'd, lest the *Former* precipitated or pre-possest, the latter surcharged or diverted, should or corrupt, or else obstruct *his* Judgement.

The offensive Arme he ought to use against the Incendiaries of this civil Insurrection, is the reversive Opposition of their mutual Force, one Passion being aptly suppresst by the suggestion of another; yet not with freedom to their proper Motions, but under Reasons Conduct, which only can yield every one a proper allay to their looser Temper, and form their being useful to Her self, wasting or diverting their harmful violence on One Another.

The manner of *His* encounter with these Adversaries, (as was prefigured) ought to be mannag'd at remotest Distance, it is not safe to close or grapple with our Passions, but rather them to smother in their secret issues. Thus regulated, *his* very Passions will not only become useful, but graceful in Discourse, and render him not only agreeable to others, but pleasing to *himself*.

XV. *Of Temperance.*

THis *Faculty* may properly be ſaid to be the exact Teſt to the Preceding Virtues, lending each One their true Diſtinction. what allay the Nature of every Virtue yields to the Embelliſhment of our peculiar Actions, ſuch allay *This* (to the refining of their Nature) imparteth unto them.

Inſani ſapiens Nomen ferat, Æquus Iniqui,
Ultra quam ſatis eſt virtutem ſi petat ipſam.

Such is the imperfect condition of humane Nature, that no ſooner handleth the faireſt pieces of *Divinity* or *Philoſophy*, but immediately it corrupts the ſame; rend'ring, ev'n in the exceſs, That ſcandalous, this unſociable. Grounded on this Obſervation are the Inhibitions iſſuing from the Authority, which form'd their proper Nature. *The ſacred Letter* adviſeth us, *not to be wiſer then we ought, but to be ſoberly wiſe.* And *Callicles* in *Plato*, ſaith, *That the Extreams of Philoſophy are ſo far from being uſeful*, they become ev'n prejudicial to the Practicer.

This *Faculty* may ſeem to be more difficult then the reſt. Inſomuch as her Nature is exercis'd on a more elevated Subject, regulating the ſecret Motions of their Properties. Other Virtues have more viſible Preſcriptions, But thoſe of *This* ſo curious, they ſeldom are exactly ſcrutable. Yet as *Her* Traces are more ſecret; ſo are *Her* Graces leſs oſtentive then Her Aſſociates are. Their ſplendid Luſtres ſeem to raviſh the intentive ſpeculator. The humble Modeſty of *This* at moſt, but to invite. Yet with ſo ſmooth and uniform a pleaſure, as the *Eudoſians* (of that Sect, who only therein places the chiefeſt Good) *under Her Conduct, form'd their high enterpriſe.*

Antiquity figured *This* Virtue under the Dimenſion of the ſame Sex, as formerly the Reſt, holding a Cup full of Wine in Her Hand.

Under the ſhadow of which ſingle Action, implying the Eſſence of *Her* ſimple Nature: Of all vertues *This* gives us the higheſt Pattern of Mans firſt Felicity. Other Vertues have more violent Efforts, and require more exquiſite Capacities in Managing: yet ſometime nevertheleſs, in their Severity, do ſeem to ſhock the Image of Natures Purity, which is to *This* a perfect Guide, and *She* to Her a faithful Miniſter.

If we ſhall truly conſider the Idea of *Socrates* Diſcourſes, ev'n in the laſt and exacteſt Tryal of his Vertue, we ſhall evidently perceive, that the tranſcendent Excellence of his Minde was erected on the humble Scituation of *This* Virtue, neither in

Sence

Sence or Demeanor figuring so much as the smallest Appearance of Emotion, Force, or Constraint, but with that Calm Facility, delivering his Plea: as Vertue had in Him cast off all Difficulty, the Foil lends Lustre, if not Matter, to Her proper Essence: The Prize of Vertue consisting not in the High, but the orderly Exercise of the Soul; not in Greatness, but Moderation, which regulateth every Faculty thereof, according to the first Institution, and innocent Condition of Nature. To reflect more particularly on the Nature of *Her* Action figured, which seems to be the Regulation of that sense, most prone to exceed in her Licentious Ministry, and in that Quality of Matter, which soonest seizeth on the Natural Light. Under the Object of *This* Sense of Tasting, is figured the Appetitive Faculty of the Soul, as well as that of the Body.

From the Nature of the Action, which is a necessary support to humane Nature, is figured the Necessity of the Work, whose end is, in the use, confined to *Her* measure. From the Position of the Subject, which is in Hand and View, we may collect, that the exercise of This Vertue hath only Reference unto Subjects, which fall within the Compass of our knowledge, Practice, and Possession; In which respect, Abstinence is locally excluded *Her* Affinity.

In the Quality of the Subject is figured the difficulty of the Work, both in regard of the volubility of the Matter, and the alluring Faculty of the Nature thereof.

From these figurative Distinctions, we may happily form some Notions essential to the usage of our *Minister*; How necessary an Exercise *This* is, will appear in the Advantage or Benefit of the use, which tendeth to the due Regulation of every Sense and Passion to the Ministry of Reason, the only light to all his Consultations; which Passions are the very Springs that lend the Soul her proper Motion: which if extinguished, according to the usage of the Stoicks, *the* Soul, as *Mountaign* sayes, *Would remain useless in her Functions, like a Bark at Sea, suspended from the succour of the winde:* But if the Passions were abandoned to their irregular Motions, Reason would be transported from her proper seat, with violence of the Agitation, and the exterior Senses become disabled to *Her* Ministry.

In which Respect, that excess in the use of Wine should properly precede a Consultation, as necessary to the Establishment of Council, may justly be esteem'd, if not a Contradiction, so gross an Absurdity, as no Custom can Authorize, or example parallel: yet among the *Persians*, it was an order so frequently and strictly observed, that it became at length digested to a Rule; on what reason, so extravagant a Custom should be grounded: Reason it self can scarce produce Conjecture, unless

it

it were by such excess of Wine to animate or correct the vital Spirits in a defective Temper, become so through the innate Intemperature of the Climate, Age, Constitution, or Habit of the Practicers: Which usage, in *Mountaign*'s Observation, so happily encountred the Temper of a *Minister* of State in his time, That he affirms *His* Enemies felt often the Effects thereof to the common prejudice of their Affairs. In which Regard perhaps the Discourses of Philosophers have handled this Vice so tenderly: And the *Stoicks* (who admit of no Emotion) have usually dispenc't with this, if not encourag'd It, unto the Relaxation of the Spirits.

Hoc quoque virtutem quondam Certamine magnum,
Socratem Palmam promeruisse ferunt.

And *Cato* the severe *Censor* and Corrector of other mens manners, hath been nothing Scrupulous to avoid reproach in this,

Narratur & prisci Catonis,
Sæpe Mero caluisse Virtus.

Yet can we not in reason admit of the excess thereof in usage of our *Minister*; not only on the point of publick Consultations, wherein the most passive minde hath more need of the use of Lead, then of Plumes: Weight to counter-ballance the irregular Agitations thereof, then Fire to incense them: But also in the private Regularity of the whole Course of his Life, both in respect of the licentious volubility it lendeth to Discourse, endangering thereby the secrets of His Trust, as also the ill Habit may be in Nature form'd, who suddenly, through use, may be induced to expect such artificial Aids, else fall abjectly from her proper vigour. The effects of Wine working but by unnatural, unequal, and constrain'd Efforts on the Elation of the Spirits, which when exhal'd, as Springs wound up beyond their Pitch, become relax't, left to their proper Motions: So that such Practice took in the perfect'st use, will rather seem a Mark of *His* Infirmities, then lend a Grace unto His Faculties; which thus acquir'd, can, at the most, entitle *Him* but to a borrowed sufficiency, not properly *His* own: yet if accidentally the liberty of Wine might in excess be Licensed, it should be under Limits of the *Carthaginian* Restrictions, which were, *That every man should be therein sparing on Martial Expeditions: That every Minister of State or Magistrate should abstain from the use hereof on Consultation of publick Affairs or Execution of their Charge, That therein the Day were not imploy'd, nor that night design'd for Procreation.*

Many

Many men, through the Impotence of their Nature, or Indigence of their Fortune, may seem to assume a passive Resemblance of the Image of *This* Faculty in their Actions, when really the very shadow thereof was never fashion'd in their Thoughts, the Exercise of this Vertue must have an unprescribed Theatre to represent Her Lustre: and a clear Judging Intellect to regulate the will. Action is Vertues Nature, and Difficulty Her Life: Her Productions are not passive nor Impulsive; neither is the Object of *this* faculty seated in the sense, but in the exact ordering of the Interior Faculties of the Soul. *Cato* infer'd no less, when on discovery of *Caesars* Amorous Letter in the *Senate*, he reproacht him with the title of a *Drunkard, who was*, elsewhere affirmed, *to be the only Man, that ere came sober to the Ruines of his Country.*

How difficult an Exercise this is, may be collected from so numerous a variety of Objects of repugnant Natures, both Exterior and Interior, which continually sollicite the appetitive Faculty of the Soul to shun or to embrace; affording it in so fluent a Distraction, no Intermission to deliberate on the Election. Of all which, we will here only for brevity, advise our *Minister* to be vigilant on two, as more especially coincident to the Corruption of *His Ministry*, Envy and Ambition. Of Moderation in Occurrences, which may lend Fuel to their Passion. *Cato's* Demeanor affords us a most singular Pattern, who suffering a Repulse, in competition for the Consulate, was so far from the attainture of any indecent Emotion on the Distinction thereof, that he wished all his fellow Citizens were indued with so eminent Faculties, as to be preferr'd likewise before Him.

XVI. *Of His Election.*

HAving thus accomplished our *Minister's* Person, and polished *His* minde to the exact Exercise of *His Ministry*, it will be requisite to agitate on a certain method, which may infallibly educe Him into Action, without the help of Fortune, we frustrate else the scope of our Intention to leave *His* Institution to so blinde a guide, whose influence (to make her Pow'r appear more eminent,) will rather be imploy'd on Subjects want Capacity, then elevate such, whose worth may claim a share in her secluding *Ministry*. On which course to advise ere we proceed, we must prefigure a distinction in our *Subject*, not in reference to the Nature thereof, but the Institution: Of which there are two kindes, *Special*, and *General*.

Special Ministers, Such as are instituted by the sole and immediate Authority of a Prince or State.

General Ministers, Such as are under the Authority of their

Orders, instituted by the joynt Concurrence of the people.

To treat whereof distinctly e're we insist, we shall reflect first on our *Minister's* Demeanor in reference to his Institution of what kinde soever, and impose on *Him* a severe Interdiction, neither obliquely nor directly, by Personal Solicitation or friendships Intercession to move for His own Introduction, or any otherwise appear therein, such Agitation being a procedure altogether unbecoming the dignity of *His* Office, The Perfection of *His* Endowments, and the Integrity of *His* Intentions.

1. A Blemish to the Dignity of *His* Office, in regard such Competition and siding, rather figure our Purpose an Object of our private Commerce, then of the publick Benefit, every man expecting to be advanc'd in their private Interest by Him they have advanc't to a capacity to further it. On the other part, the pretender implicitly inferrs no less in His abject, assiduous, and mercinary Addresses, which if successful, inthral the freedom of his minde in civil Ties, which must be dis-ingag'd at expence of the publick Interest.

2. It is moreover inconsistant with the very Appearance of those Perfections, which should intitle Him to any Right, in this *his* Dignity, to assume such vanity in His ostentive claim, as to become *himself his* proper Advocate: Vertue for such can scarce be qualifi'd, that secretly propounds but to it self a Recompencey much less for such, that publickly shall challenge it, as her own property.

3. It further renders His Intent suspect to prosecute *His* purpose with such Ardency. Vertue, 'tis true, can have no nobler Object then the publick Good (which must exalt the very essence of Her Nature) rendring her Effects more communicable: Yet her progressions are nor violent nor irregular. Such Efforts may be shadowed with her Attribute, yet are but secret masks to Avarice and Ambition.

To persue the Order of our Discussion on the Distinctions of *His* Institution. We first must agitate on *His* especial Election, which soly and immediately depending on the Arbitrament of a Prince or State, the success only rests in their Direction: to which, since the capacity of Judging in a Prince, is oftentimes obstructed by his proper inclination, Others Intercession, or by a remote, reserv'd or disguis'd Communication. It were far safer to require the Presentation of *His Minister* from the concurrence of the *Society*, to which he is to be a Member, under adjur'd Prescription, That without fear or Favour, they shall impartially propound no Person to his Trust, for any other consideration whatsoever, then for the advantage they conceive *he* holds or'e other in His Sufficiency and Integrity. And lest the Nature of this Method might bear some appearance to

form

form a Faction. The whole *Society*, if of too large a number, may be reduc'd into a small Committee, whose joint concurrence onely should have force to nominate the Pretenders, which might amount to such a number, the Majesty of a Prince might in the vast extent thereof, remain unblemished in the Election.

The *special* Election of *Ministers*, under the sole and immediate Authority of a State, requires more Caution, because more incident to Faction. The Election therefore (under the same Prescription) should yet be more obliquely managed, removing it far from the Interessed, by changing sundry times the Instruments thereof, who thereby should excluded be from such Pretension. No Elector near or remote, retaining a Capacity to be Elected, after the *Venetian* manner: for example, The whole *Society* makes choice of Fifty Commissioners, which Fifty institute Thirty, which Thirty select Ten, which Ten Three, which Three determine only on the Election.

The *General* Election of *Ministers*, whose Institution hath (with the Princes or States Authority) relation to the concurrence of the People, is yet of higher consequence then the rest, Insomuch as in such consultation, Laws are usually enacted, reformed or repealed; new Impositions leavied, and weighties Enterprizes managed or design'd; In all which changes, the People make an essential Surrender of their Fortunes, Lives, and Liberties to *His* Trust, without pretence of Reparation, the Issues being damageable, since licens'd by Their proper Act; It cannot therefore in reason, be a proceeding warrantable in the selecting of this *Council*, to commit the establishment thereof soly to the Direction of a shallow multitude, whose souls do seldom move to other Object, then the sense, prefiguring (in Reference to the Competitors,) rather who makes most frequent and most sumptuous Feasts, who lets His Tenants set at easiest Rates, then who hath given the fairest proofs of Prudence or Integrity, both in the model of His private Oeconomy, and in the intercourse of publique Commerce. Furthermore, admit the Rabble of Capacity clearly to distinguish Agents proper to our *Ministry*. Their Estates for the most part, have too much dependance on anothers will, to leave theirs so much liberty might make the Election free, so that of necessity, the rich only having advantage in the number of Tenants, acquiring the same in the number of votes, may claim *His* Introduction, by an unquestion'd priviledge, so frustrate, if not pervert the Intent of our *Convention*; which Inconvenients to avoid, we must collect a compound Method of Election from the preceding Models.

First,

First, not to infringe the Immunities of the People, the course thereof may thus (without suspect of prejudice, or to themselves or others) Commence and Terminate in their Agitation.

Commission issueing from the supream Authority of a Nation, being directed to County or Corporation for the Election of a *Minister* unto a publique consultation, whither such Order extend unto Freeholders, or Free-men only, or unto Masters of a Family in General; it is not much material, provided, they shall only (under the said Prescription) by the advantage of their votes, design a new society of a much smaller number, to agree on the selecting of a less, which should return unto the first Assembly, a double number of the Ministers proportion'd for that Place, from which they only might select their choice.

XVII. *Of His Institution.*

OUr *Minister* thus advisedly and authentiquely Elected, to illustrate *His* Admission with more Grace and Order, we shall proceed unto the Manner of His Institution, which as we formerly have distinguished, we will distinctly handle.

If, as a *special Minister*, his preceding Election terminate onely in the agreement of a Prince, an Order onely issueth in His name to specifie to his *Minister* the Grace of *His* Election, with Summons to repair to him for *His* Instructions; to which appearance made, our *Minister* at first Aborde on Oath, shall yield an Evidence he hath, nor secretly, nor sinisterly practised with any to procure His Introduction; to which the Oath of His Alleageance tendered, He is admitted to attend the Orders of his Soveraign, from whose peculiar consultation *He* is to be enlightned in his purposes. What enterprizes have preceded, what yet in Agitation, what designed, how persued, and whereon grounded, to the Intent our *Minister* may not come blindly unprepared to officiate, whereon proceedeth a command an order be addressed to his *Council* for His Reception.

If as a *special Minister*, the concurrence of Commissioners of State, or else their substitutes determine the Election. The intimation thereof is by the immediate Electors returned to the primitive Committe, from whom Order issues to the Party Elected for his personal attendance, on whose appearance the examination of the Manner of his Election is in like Method persued, the National Oath tendred, Instructions passed, and such Remonstrance returned to the Senate to authorize *His* Reception.

If

If, as a *General Miniſter*, *His* Election extend yet farther to the concurrence of the People. The Election, as aforeſaid determined by them, may by the Officers of that Shire or Corporation (authorized to o're-ſee the courſe of this Election) be inferred forthwith to the Party choſen, with ſummons to repair to Them for his Inſtructions, upon whoſe Preſentation *His* Teſtimony as aforeſaid on Oath delivered, to ratifie *His* Sincerity in courſe of *His* Election. The National oath of Loyalty, with that alſo of *His* Fidelity to the Peoples Truſt being tender'd *Him*; the overture of all their Grievances and Requeſts, may by the foreſaid Officers be made to *Him*, to be preferr'd to the Supream Authority, to whom they by certificate return the Authority of *His* Election.

XVIII. *Of His Reception.*

HAving attain'd His Writ of Inſtitution our *Miniſter* is thereby required to make *his* next Addreſſes to the *ſpecial* or *General Society* (or Officers deſigned to precide the ſame) for His Admittance. The nature of which Ceremonie retaining the ſame Objects in every Diſtinction of the former Diviſions, will concurr in one common Method; preſenting to our Miniſter a ſtrict and ſolemn Injunction, conſiſting of Two Principles in reference to the Integrity and Succeſs of *His* Council, Impartiality and Secreſie.

How prejudicial the Nature of a partial Judgement is to the Eſtabliſhment of a ſecure Advice, may to every common ſenſe be evident in the woful Iſſues of ſundry publique conſultations, where the privately intereſſed Agents, under pretence of common benefit, inveſt them with the common ſpoils of their own ruin'd Countrey.

As unbeſeeming alſo is it to the Honour of our *Miniſter* to betray the Truſt of others to the Advantage of His private ends, and ſo deface the very Image of His Creator, belying *His* own Reaſon in favor of the Senſe.

Secreſie is alſo, in the very Nature thereof, no leſs Requiſite to the ſucceſs of a mature Advice. Publique Deſigns are often fruſtrated by common Rumour e're they are put in Execution, nor becomes it the Dignity of our *Society*, to make their daily Agitations of ſo little weight to be the Subject of each idle Cenſure, ere they are fully formed for a timely Iſſue.

Which Ceremony finiſhed, and *His* Name by the Clerk of the *Aſſembly* Regiſtred; *He* is, in Order to *His* Election admitted to His Seat. And if a General *Miniſter* receiv'd, according to the *Roman* Manner, paſſeth *Pater Conſcriptus*.

XIX. *The general Object of His Office.*

OUr *Miniſter* thus imbarqu'd for publick conſultation, leſt ſo high an erected Mind ſhould improfitably float on the ſurface of a doubtful Agitation, and be transported from our uſe by every irregular Emotion. It will be requiſite *He* always have in view the perfect Object of *His* Inſtitution, the better to direct *His* Courſe, through the Tranſaction of *His Miniſtry*, He may at no time deviate from *His* glorious Enterprize.

All Nations, Sects, and Factions, how differing ſoever in other Opinions (or repugnant in their Practices to the Nature of their own Diſtinction in this) agree in the Expoſition of the Object of our *Miniſtry*, poſitively affirming It to be the *Publique Good*; But in what, the Nature of this *Publique Good* conſiſted; few have ſufficiently enlarg'd upon, ſo conſequently, obſcurely, but perſu'd her Acquiſition; yet under what Definition ſoever this *publique Good* hath been figured in the Diſcourſes of Immaginary Common-wealths; the ſecret Practiſes of all Eſſential States (exactly diſcover'd in their undiſguiſed Iſſue,) will truly inform us, the means to attain this *Common Good*, neither is, nor ever hath been really believ'd to have been rais'd on any other Baiſe then *Wealth*, *Greatneſs*, or *Glory*. Which ſince ſo generally and paſſionately perſu'd by each united *Miniſtry* of *State* we briefly will examine, how farre ſuch Attributes have or may conduce to the exact contexture of our *Edifice*.

Firſt, If we ſhall reflect on the Effects of *Wealth*, as univerſally diſpenſed through the ſeveral Members of a *Civil Frame*, proportionable to the Quality of every part thereof; we ſhall find juſt Cauſe to ſuſpect there may (ev'n in ſuch Affluence) be an exceſs, which might be inconſiſtant to the perfect conſtitution of a *Common-wealth*. And although *Riches* may be ſaid to be the Nerves of War, armes the ſecurity of Peace, Peace the Crown of every *Civil* Enterprize, yet it muſt ſtill be with this Limitation; That *It* may be proportion'd to the uſe, Holding therein a true *Analogie* with the Natural Body, which receiving the moſt perfect Element whatever, and thereof forming the moſt perfect Coction and Diſtribution, may yet nevertheleſs, (as Naturaliſts inform us) in an unequal Repletion, become *Plethorique, quoad vires*, and *quoad vaſſe*, both in Reſpect *of the natural vigor*, or in Regard *of the natural veſſels*, and ſo conſequently, either ſuffocate or extinguiſh the innate Heat. The proper inſtrument to all the Faculties thereof, or elſe extend the Organs beyond the true capacity of their Continent to the Production of a dangerous Rupture.

Perſuing

Persuing the Parallel to this Pattern, we (from the Image of this prefigured Distempers in the Natural) may visibly collect like Inconvenients inherent to the Affluence of *Riches* in the *Civil* structure. In Reference to the four natural Humours, either *actively* or *passively* receiving several Dispositions or Aptitudes to form the like Disorder.

1. In the Sanguine Temper, Plenty procures Wantonness, Wantonness, Lux; Lux, Riot, Riot the extinction of the Natural, Vital, and Animal Spirits; the immediate Instruments whereby the Faculties of the Soul are educed into act. A proof of this opprobrious Termination is figured to us in the Translation of the *Assyrian* Empire from *Sardanapalus*, to the *Medes* and *Persians*, and to the extirpation of the *Persian* Empire by the *Greeks*; who as a latter Historian sayes, came equipag'd to the Encounter of their Foes, as if design'd to celebrate a Mask, rather then to execute a Fight. And from thence also sprung the Ruine of the *Grecian* Glory, as appears by *Hannibals* Judgement of *Antiochus* Army, when in their ostentive Bravery presented to his view: And by the Macedonian King demanded arrogantly, If that his splendid equipage of War were not sufficient for the *Romans*, replyed *scoffingly*, *Enough*, *Enough*, *were the Romans the most covetous Nation of the world.*

We might here farther instance the several Breaches the succeeding *Roman* Empire suffered by the like Distemper in sundry changes of the Constitution of their Government, under the Rule of some Licentious Princes; As also the Tragick Issue form'd from hence to *Anthony* and *Cleopatra's* Naval Gallantry. But, such extent of Examples (though otherwise agreeing to the Reader, we have, from the first entrance on this work, resolved to avoid, how fluently soever they might fall into our memory. In that they possibly might swell into a Bulk, not answ'ring in proportion to the due Structure of our *Treatise*. And so instead of Ornament and Illustration to our Arguments, disguize the uniformity of our Method to the obscurity of the sense thereof; which here to re-assume, we must again reflect upon our premised Distinction.

2. A fluence of *Wealth* meeting with a flegmatick Temper, enduceth Security; Security, Neglect; Neglect Sloth; Sloth benumming the Natural, Vital, and Animal Spirits, depending on each others circular contribution, extinguisheth the Innate Heat, so consequently tends unto the same destructive Issue.

3. Riches encountring a melancholly Temper, forms a delightful Scene to entertain the flattering thoughts with Love of their own Image: Self-Love swells to Self-Conceit, Self-Conceit to Pride, Pride to Ambition, Ambition to the actual Combustion of the *Civil* Frame.

4. *Opu-*

4. *Opulence* inveſted by a Cholerick Temper, foments a nice Diſlike, Diſlike cheriſheth Paſſiõn, Paſſion Stubbornneſs, Stubbornneſs Temerity, Temerity Preſumption, Preſumption Strife, the common Incendiary of a civil union. Secondly, The efficacy of Treaſure, in relation to the *Publick Good*, examined, when engroſſed in the Exchequer of a Prince or State, may yet be judged of leſs prevalence to the due forming of our perſu'd *Object*; conſidering that ſuch affluence to the Publick ſtock, at length exhauſts the private ſources, furniſh't the encreaſe, according to Trajan the Emperor's Similitude of his Treaſury to Tumors *of the Spleen, as which encreas'd the other Members of the Body ſtill were Leſtned, and at length periſhed, deprived of the due proportion of their Aliment, unſeaſonably attracted to foment ſuch Diſorder:* So common Receipts ſeldom become enriched but by the general Impoveriſhment of the people: Which Indigence ſo diſableth their faint Bodies, and dejecteth their ſervile minds, that they are neither uſeful to the *Commonwealth* in time of Peace, to lend It ornament or enlargement: nor yet in time of War thereto to contribute or Succor or Defence.

To lend more force unto which Argument we may yet farther adde, That ſuch Accumulations oftentimes become the only Object of an hoſtile Invaſion, when the indigence of a neighbouring State, oppreſt with number, debordes their uſeleſs multitude on the moſt flouriſhing Continent. To paſs over with ſilence divine Inſtitutions in Reverence thereof, we might affirm this to be the viſible motive of the Children of *Iſrael* penible enterpriſe through the Deſart to the Land of *Canaan*, they thereby might exchange their *Onions and Garlick* for *Milk and Honey*. *'Twas the deliciouſneſs of their Wine, brought the Gauls into Italy.* By the like inducement were the *Goths*, *Huns*, *Vandals*, and *Francks* invited to the Devaſtation of the Roman Empire, by which Aſſaults the Scepter was at length tranſplanted from that Seat.

2. The ſecond Tract ſo frequently in uſe to aborde This our affected *Object*, is *Greatneſs*: which *Attribute*, although implying vulgarly a double ſence, might ſeem to want a farther Expoſition, either in reſpect of the qualification of our *Subject* in Power, or in regard of the eſſence thereof, in Dimenſion: Yet ſince the qualification of every Subject may properly be ſaid to be inherent to the Eſſence thereof, We will reduce the intimation of the former into the intention of the latter. And take a view of this our preſent *Subject*, according to the Nature of *Proportion*, to weigh how far the vaſteſt extent of a *Commonwealth*, may properly conduce to the due forming of the *Common Welfare*.

In perſuit whereof, if we ſhall reflect upon the Courſe of Na-

Nature (handmaid to the perfect'st Governour) to see what Limits she observes herein to attain perfection in her useful Structure. We may distinguish, that she faileth much of her Intention, when she encountreth matter dis-proportion'd to the scope of her intended work, and either falleth under the burden of her proper Continent, her vigor spent or weakened e're she is able to communicate her force to the extreams too remote from their principle, from whence was form'd their union, or raiseth to her self but an imperfect and irregular structure, so that the parts thereof, wanting capacity to receive the impression of her Faculties, must hasten to a sudden ruine.

In the former manner sunck by degrees the *Roman* Empire, under his prodigious Immensity.

In the latter manner vanished immediately the Grecian Empire under his unform'd contiguity.

And according to the same method, even Nature her self seems to have proceeded in the composure of the whole sublunary frame, in favour of our *Civil* union, prescribing scarce accessable Divisions to Scituations of distinct *Communities*, to facilate that Harmony should so arise from the Agreement of such equal Temperatures, in a close Precinct; which, in a vaster Latitude, suffering unequal Diversities from those various Impressions, which the Element, (our common Aliment) conducts to us from the Influxes of the Stars, would prove but too repugnant in the parts to constitute so unanimous a mixture in our *Civil* Composition, as might be needful to a common union. Such bounds hath Nature wisely tract to the aspiring *French*. The East part of their Jurisdiction secluded from the Coast of *Italy* by the *Alps*; the South from *Spain*, by the Pyrenean Hills; the North from *Germany*, by the *Rhine*; the West from *England*, by the Sea. So *Italy* and *Spain* are by the *Ocean* wisely limited, could but the Rules of Nature or of Reason prescribe any to Avarice and Ambition.

3. The third pretended conduct to our *Object* is *Glory*. A Tract, 'tis true, not frequently in use, perhaps because not clearly obvious to the refined'st sence, and of most held too slight and inessential a material for the foundation of our *Civil* welfare. Yet when we shall collect from the first model of the *Roman Commonwealth*, what speedy progress, and how lasting Atteintures the ravishing Lustre of *Her* Essence *Heret* hath acquir'd, e're disguis'd with adulterate Ornaments, *She* appear'd in *Her* native purity; we may conclude *She* really out-stript *Those Her* Competitors in the advancement of *Her* purposes.

What Soul so stupid that shall but reflect on the attractive Graces of their primitive Vertue, that will not without scruple affirm, that the influence thereof won more mindes to their

Rule, then their Swords Bodies to their servitude. *Camillus* so prevail'd with the *Falerians*, T. *Q. Flaminius* so withdrew the *Grecians* from the Macedonian Aid, by his Humility, Courtesie, and Justice. The *Glory* of whose Vertue, yet in her antick Ashes, hath so sensibly affected a high erected minde of latter times; (otherwise inattaintable to such Affecteries) That he hath left a lasting Monument to the *Vanity* of his Passion, to *be instil'd a Roman Citizen.* But the splendor of those endowments were suddenly eccliptst, when *She* corrupted by the allurements of her Concurrents, *Wealth* and *Greatness* became a common prostitute to their Impostaries. The frailty therefore of *This* Instrument weigh'd with the Imperfection of the former, in reference to the *publick Good*, disclosed thus, endeavoureth to propound more real and distinguishable Lights to the discovery of our intended *Object*, to which the formerly discussed *Subjects* may consequent Associates often be, but no essential Materials to the composure of our *Civil Structure*; the perfect'st Country of Rule to form the *publick good*, more properly may thus be figured, *Where by an Authentick, equal, known an insubvertible Law, the Lives and properties of the Members of a Civil Government are timely and impenibly secured and improv'd both to the private and the Publick use.* On which Foundation we will endeavour to erect the Structure of our *Civil* Fabrick.

* *Mountaign.*

XX. *The Authority of the Law.*

MAn, from the fall of his first intinctive Purity, abandon'd to his own Direction, retaining an imperfect shadow of the former light, did aptly qualifie him for the Dignity of his first Institution, in this his Independency, became so arrogant and presumptious, he would submit to no prescription but his will, no not by way of precept, lest such an appearance of advantage in the Intellect should seem to incite other to a fairer Interest in this his forfeited Prerogative: which inflexibility and repugnance of Spirit enforc'd the wisest Legislators to have recourse unto more powerful Aides then humane Reason, to rectifie and reclaim so licentious and irregular an Inclination (as counterfeits of *Moses* procedure in his Divine Institution of the Jewdaick Law) pretending all to have received such Prescription, in a supernatural manner, immediately from Heaven. Such speculative Ordinances *Licurgus* the *Lacedemonian* Legislator pretended to have receiv'd from thence, by the community with his Hinde, such *Numa* with a Nymph, such *Mahomet* with his Dove: And since they were not able to perswade, endeavour-

deavour'd thus to cheat the sense, the corrupt *Minister* to the will. But such Impostures may easily be disclos'd in the resemblance of their prodigious issues, which bear not the similitude of their pretended pattern.

The *Mosaical* Law exactly represented the Divine Character of such a principle, consisting of two united, yet distinct Tables, as containing Subjects of a differing Nature, in reference to one only Object, *Common Union*; which equally was expounded by the holy *Word, Love God above all things, and thy Neighbour as thy self*: From which compendious stock were extracted by the inspired *Minister* (for Illustration and Enlargement) the issuing Branches of the Ceremonial, and the Moral Law. And although the result of the first *Apostolical Council* seems to dispence with such Ordinances, *as a yoke too weighty for their Fore-fathers*; yet is it questionless to be suppos'd in Reservation of the original, in which Distinction the *Cabalists* generally seem also to agree: affirming the *Decalogue* only to be the Law of God, the *Appendices* the Institution of Man. This Exposition the stile of *Moses* words in the Publication thereof seems implicitly to confirm. The Preface to the Principle Decrees being, *God spake these words and said*. The Introduction to the Collateral, *God spake unto Moses and said, say unto the people*. In consequence of which Argument in obedience to the Institutor, we will positively admit of the principle, as a Rule unto our Ordinances, and in Reverence to the *Minister*, not neglect the *Appendices*, as a Light unto our Institutions, how which hath been, or yet may be pursued to the exact conforming an unquestionable *Authority* to Law, We further will examine. The Ornaments most mute to the inviolate of this awful Majesty of Rule, are either (in regard of the Act) formed from *Antiquity* or *Custom*. Or (in respect of the Actors) from their *Virtue* or *Power*.

Between Antiquity and Custom (in Relation to common Rights) there is only this Distinction; The latter may properly be said to be the unformed and illegitimate Issue of the former, unformed in regard it bears not the distinguishable signatures of a digested Law, though it exercise the privilege thereof, extracting the Virtue of such efficacy from Toleration, rather then Concession. Illegitimate in respect the Original thereof always is ambiguous.

Antiquity (for Reception) pleads the Perfection of Her works, from the Stability of the materials thereof: the Propriety thereof, in the use, from the Facility of Her builders (form'd in a long digested Habit) the consequence of the continuance thereof, from the common danger inherent to an Innovation. The essential weight of all which Arguments, we farther will endeavour to discover.

The

The pretended proof of the Perfection of Her work (rightly understood) is but a Badge to the inherent Distinction of her own Nature. What e're is Aged stylèd, of necessity implyes the same must have been lasting; Neither doth the perfection of our Subject fall under the predicament of Quantity, but Quality, *Non quàm Diù sed quam Benè, Not how long, But how well.*

The Propriety of her work to the use is improperly posited a consequent to the facility in execution; since we may sometimes observe even in Nature her self translate the use of Parts, which not rightly constituted did frustrate her Intention: so in defect of hands some have exactly written with their feet. Which Action wanting the Grace and Order of Natures Institution, may rather be stylèd a Prodigy, then a perfect Ministry. Practice may possibly form a Habit in imitation of Nature or of Reason, which properly are consonant unto the Rules of neither. In discovery whereof, if we shall search into the Primitive Models of *Civil* Government, we shall finde therein such ridiculous Absurdities (notwithstanding the common Union hath been lasting, and perhaps flourishing) that a clear judging Spirit will admire how the reverence of this Idol should keep enlightned Ages in such servility, as not to dare to handle her yet remaining Relicks: probably this may be in honour of the Vertue and Felicity of the Communities of those times, whereof such Institutions may be thought to have been the immediate Instruments, when really they are not so much as the remotest Relatives thereto. But the happy issues only of mans declining, yet not totally subverted Innocence, as nigher the Original of his first Purity: but when this wilde distemper had attain'd to a more eminent excreata, exacter Rules became requisite to rectifie the disorder.

The third pretence whereby *Antiquity* may claim a right to her Establishment, is the consequent danger to an Innovation. 'Tis true, all Alterations, how profitable soever, bear in their Introduction an appearance of damage, especially so rightly managed (as when too sudden, or to the preceding directly opposite:) Yet any Pilate, though but meanly skill'd, may easily avoid those shelves, insinuating his Purposes by imperceptible Degrees, and guiding them obliquely to their End.

Yet lest this notion (in the ejection of Antiquity from the right of a just Authority, to the Institution of a Law) should altogether seem impertinent to the use of that *Community*, to which this Treatise is peculiarly addressed. To enlighten the Intention of our Argument, we humbly crave permission to weigh the consequence of a proof, extracted from our common usage.

Omit-

Omitting to inſert intails of Lands by private Act or Teſtament (although the Tenors thereof terminate in the ſucceeding conſequence) becauſe therein perhaps may be alledg'd, the Laws were guided by the intention of the Donor, in the diſpoſing only of his own. We will disjoyn them from all other Reference, and leave them ſoly to their proper iſſue, admitting (for example) *A man (by his own acquiſition) become poſſeſſed of a real Eſtate dies inteſtate, and leaves ſurviving a dozen Children, Males and Females: The Law confers the ſaid Poſſeſſions wholly on the eldeſt Son, in right of His Succeſſion, with ſmall regard or none unto the Reſt,* who thereby are enforced to ſubſiſt on Almes or Servitude.

With all due reverence to our Legiſlative Power, can the allowance be adjuged equal? where the very innate form of Natures Rules (ſo ſweetly and infallibly guide every Beaſt by ſecret and inſtinctive Motives to the impartial preſervation of their kind) may ſeem extinguiſhed.

Nor is this Law leſs diſſonant to *Moſes*'s Moral Inſtitutions, *Which to the Primogenitor only, yield a double ſhare, as the advantage of his Birth-right.*

The Civil Law, above the reſt, affords him meerly but the priviledge of a more eminent Diſtinction, excluding, in his Right, the chief Seat only (to the extent of a Capon flight) out of the common Partage.

But to make clearer diſcoveries into the Nature of this Inſtitution, if we ſhall yet farther viſit the ſecret props of the Foundation by ſuch Lights are afforded us to make Inſpection into ſo obſcure and remote circumſtances, we may finde, that private Vanity and Faction have been the chief Promoters of this procedure, to which (not being of power ſufficient to form it to a Rule) may probably be joyn'd the Ambition of the Inſtitutor, as the depending Aids to his ſupport.

How common and ridiculous a Paſſion hath tranſported the ſenes of man to perpetuate the glory of his Name by the enriching of their Families, our Nation daily may afford too viſible and deplorable proofs, where it is become a plauſible practice, to abandon their own proper iſſue, to raiſe their Memory on ſo vain a ſhadow, that it wants frequently or knowledge, or relation to lend it a pretence to ſuch Inherency. *This diſtemper of the minde deſtroy'd that Miracle of the world at* Epheſus, *where the obſcured Aſor wanting, or worth, or wealth to enlarge his memory, leſt dead he were forgot, would make his Name remarkable to all ſucceeding Ages by the eminence of his Miſchief. So* Nero's *Mother being foretold the danger to her Perſon in her Sons Succeſſion to the Empire, cryed out, poſſeſſed with this frantick Paſſion, Let me dye, ſo he may Reign.*

That faction ſhould advance this Inſtitution, it is probable

(ſuch being the unlimited Envy and Avarice of Man) that (ſetting all other appearance of Enmity aſide) the moſt equitable enlargement of one Family near another, is of ſufficient prevalence to engender ſecret Emulations, which are not long contained in ſuch obſcure Limits, but ſuddenly break forth to publick Ruptures of Diſſention, which to foment (they dying) contract their Faculties in one Principle, thereby to contribute more force to encounter Oppoſition.

The Intereſt of the Inſtitutor may hereto alſo concur, whoſe greatneſs conſiſting in the Power of his Homogers, did conſtitute ſuch Tenors to Poſſeſſions, as might no way be weak'ned by Diviſions, when ſummoned to his ſuccor.

But the moſt material Inconvenience inherent to this *Civil* practice, is altogether repugnant ev'n to the very Nature and Primitive Intention of the Law, which is *Civil Union*; and ſo much the more prejudicial is the conſequence, by how much the Breach thereof is nearer the original of Unity, Amity, or Friendſhip, which *Ariſtotle* affirms, Legiſlators have in the eſtabliſhment of their *Civil* Structure, more regarded then Juſtice it ſelf. Can there be a more viſible, Impulſive, and ſenſible cauſe of Diviſion between Brothers, then that the Legitimate Children of one Father ſhould (through neceſſity be reduced into Dependance, Subjection, nay Servitude one of another, without the advantage of any other Endowment, then the precedence of a little time. *It was the apprehenſion of ſuch unequal ſubordimacy did inſtigate the Patriarch's combining iſſue to ſell their Brother into Forreign ſlavery: when yet his innocent Age was capable to form no other ſhadow of Inenmity, then this their envious jealouſie.*

The other Baiſe whereon the Authority of a Law may be judg'd firmly conſtituted, is the Virtue or Power of the Inſtitutor.

That the reflexion of *Vertue* (how remote ſoever) hath ever had a powerful Influence over the Spirits of ſucceeding Ages, is altogether unqueſtionable, whereon perhaps was grounded this Cuſtom amongſt the Lacedemonians, *That, what Law or Advice was firſt propounded by a vicious Agitator, if approved of, ſome Perſon of an eminent Vertue was by the General Council immediately required to pronounce the ſame, leſt ſuch a motion ſhould want that Grace and Dignity, was requiſite to lend Authority to the Eſtabliſhment thereof.* But that the Inſtitutions publiſhed by perſon or Aſſembly ſo exactly qualified, form'd from no other Object then the particular Occurrence of thoſe Times, ſhould totally ſo o're-ſway the Judgement of ſucceeding Miniſters, as to admit of them for unalterable Poſitions, beyond the confirmation of their own Diſcourſe, is but a ſervile

Impo-

Impoſition repugnant to the purpoſe and propriety of a Law. *Malum eſt Concilium quod mutari non poteſt. Evil is that advice which cannot be changed.*

Power (ſimply poſited) though it may ſeem at firſt Inſpection to claim a high and more legitimate Title to this Prerogative, as the affected Iſſue of ſuch eminence, yet when we more exactly ſearch into the ſecret nature thereof, in Relation to this Attribute, we ſhall ſo far diſſent to ſubſcribe to her Intereſt herein, we altogether ſhall ſuſpect her very appearance in the managing of a Legiſlative Tranſaction: inſomuch as the diſcuſſions of an imperturbed Reaſon are ſoly requiſite to the due Conſtitution of a perfect Law, whoſe iſſue circumſcrib'd but by the meer Parado of a force is oftentimes obſtructed, if totally not ſubverted. Violence, though ne're ſo fairly poliſhed, bears but the exteriour ſemblance of a wrong: not is it proper, that what intruding in our private Agitations, may legally diſpence us from the *civil* Ties of our own Act, ſhould be admitted to the Introduction of a common Ordinance. A due ordered force may, and muſt, of neceſſity, be the ſubordinate Miniſter to the Execution of the Laws, but not a preſident o're the Conſultations thereof. The order of our Argument, circumſpectly traced, will lead us to a conſequent without a propoſition; which is, that the moſt plauſible and unqueſtionable Authority of a Law is that, *Which is formed from the free agitation of the moſt prudent and faithful Miniſters, and eſtabliſhed by the unanimous Concurrence of the people.* According to this Method was even the Law of God publiſhed by *Moſes*, and by *Joſhua*, and confirmed by the aſſenting Multitude; And if that holy and powerful Sovereign would not exact an obedience from the work of his own hand (though tending only to their proper Benefit) without a Covenant, which could no otherwiſe be conſtituted, but by conſent of parties. How irregular and unwarrantable are their proceedings, who violently impoſe a ſevere Ordinance to the reducing of their equals into ſervilty (altogether to their prejudice) not only without their liking, but abſolutely contrary to the ſame. The primitive intention of a Law, is the good of the people, and how that ſhould conduce thereto, which ſhuns the teſt of common approbation, may certainly be term'd a Myſtery, but ſcarce receiveable in Equity.

Perhaps, may be objected, that hereto as the Natural, ſo the *Civil* Body is incident to Infirmities, that ſometime may deprive it of capacity to reliſh their own Common Aliment, much leſs to leave it Faculty to diſtinguiſh of Artificial Remedies; which reaching not their Judgments, do often not affect their will. This being granted yet (of neceſſity) to apply the means to rectifie

rectifie such disorder, the will must be prepar'd, or prepossest; convinc't with Reason, or intic't with Art: otherwise an open and repugnant violence will but exalt the Distemper, and so instead of repairing, or reforming, totally subvert the constitution of a *Civil* Frame. Such dexterity may palpably be observ'd in the common practices of the most prudent Legislators, on such exigents, electing proper seasons, and peculiar Accidents, profitably to insinuate their purposes, where Reason was not prevalent enough to form their introduction. 'Tis probable the penible and dangerous enterprize of the Jews through the Desart was design'd by Divine Providence, to reduce their unruly stubbornness to a more docile Temper, by such apparantly destructive straits, more facily to introduce that sacred Law, was to be tendered unto their subscription: which yoke would ne're have been accepted of, in the fruition of the promis'd Land, the irregular motions of their will transported to a higher strain by the Allurements of licentious Plenty.

XXI. *The Equality of the Laws.*

FRom this Attribute the very Law it self seeming to form her proper Nature, it may be judged altogether impertinent to lend thereto further Distinction: yet when we shall consider, that every perfect Ordinance must (of necessity) have reference not only to the *Offence*, but to the *Delinquent*, and the *Injured*, it will be very material to weigh the due Conformity, a Law should hold with either.

The true Analogy of a Law in Relation to the *Trespass*, be it either Omissive or Commissive, Publick, or Private, is an equal Reparation; on which Parallel was raised the severe Injunction of the *Mosaical* Law, *An Eye for an Eye, and a Tooth for a Tooth.* On the decision of this due proportion, Justice in her Figure seems altogether intentive, in the firm Posure of her hand to the exact Poisure of her Ballance. Laws in their appearance may sometime extend their weight beyond the Nature of the Crime, tending especially to the publick use, by such severity to restrain the rashness of Licentious Attempters: but in their execution should secretly provide a charm to allay the fury thereof, lest that the *Civil* frame should thereby else be weakned or Impoverished. Those Ornaments will ill become the Majesty of a State, are become purple in her proper Gore; nor is it consonant to the Dignity of a Law, to form a Commerce for Delinquency: As there are rewards for publick Offices, without the expence of the common Treasure: so there are Penalties for publick Damages, subvert not Interests of a private

vate Family. Which ne'retheleſs muſt with a nice diſcretion ſtill be managed: a danger to the State may equally enſue the Remiſſneſs, as the ſtrictneſs of a Law. In diſpencing yet of private Rights, the Law (without Impeachment) more firmly may adhere unto the litteral ſence thereof: Inſomuch as the publick Miniſtry is therein ſeemingly not much concern'd, but more remotely intereſſed, taketh away the Jealouſie of a partial Procedure. Edicts erected only for the publick Intereſt, ſeldom have other objects then the Obedience of the Members of the *Civil* Body; whoſe infringement may therefore be plauſibly repaired in a due Submiſſion. Decrees enacted to the ſupport of private Intereſts, have ſeldom other Object then the Deciſion of Right, whoſe infringement ſeems properly repaired in a feiſable reſtitution; yet ſince the violation of a private right is ſeldome perpetrated without indignity to the publick *Miniſtry*, in Contempt or Diſorder, a ſubmiſſive Penalty (of right) is thereto alſo, ev'n therein, to be conſtituted, the better to ſupport the Majeſty thereof; provided it may not be ſo conſiderable, to lend her the ſuſpition of a Party in the Tranſaction.

According to this Diſtinction (in reference to the Deciſion of Private Rights) were *Moſes* Inſtitutions parallel'd: as in matters of Felony, *He ſhall reſtore it double, and if he be worth nothing, he ſhall be ſold for his Theft.*

The Goſpel Inſtitution is, that *He ſhall ſteal no more, but rather labour with his hands that he may be helpful to others.* Which queſtionleſs implicitly muſt thereby firſt infer a reparation to the Injured. Yet ſince all private dammage is inherently oppoſed in a common Conſequence to the publick Intereſt, if we ſhall farther conſider this crime as a breach of publick Commerce; the equilibriate thereof may ſeem to reach no vaſter Latitude, then publick Infamy. *This the Lacedemonian Cuſtom vſed at, as the due Penalty to the attainture of a Felony; which otherwiſe, not ſurprized in the manner, was held a plauſible enterprize, licenſed but to acuate the vigilance and Invention of the people, to the preſerving and improving of their Properties.* Which Practice, (though not approvable in the uſe, that Virtue paſſing of neceſſity for ſuſpected, which holdeth but a ſhadow of dependance with the Miniſtry of Vice: yet may we from the former preſidents (to the reſtraint of this Crime) form a mixt Method of our Punity, as more equivolently proportioned unto the nature of the Offence, compos'd of Reſtitution, and of Infamy: And although the latter may perhaps not meet with that Efficacy in our vulgar people, with whom this Crime moſt frequent is in practice; as it hath formerly incountred in the more elevated piris of the Lacedemonian State, where the Impreſſions of Shame were ſo ſenſibly ingrav'd in their Appre-

henſions from their very Infancy, *That a Boy having ſtole a Fox Cub, which cloſely he had covered with his Coat (jealous to be ſurprized in the manner) ſo much reſtrained the Emotions of Frail Nature in his tender years, as the very ſhadows thereof fell not under the Diſtinction of another ſenſe, until the ſtrugling Rape had made a paſſage through the very Bowels of the Attempter:* but when ſuch Infamy is paſſed with a general Incapacity of publick Truſt, their proper Intereſts will enforce them to reſent it with more horror. To which, may probably be the cauſe, in reference to the infringement of the publick intereſt, in ſuch Treſpaſſes, our Laws do yet exact the Attainture of the Felons Goods.

2. In perſuit of the Order of our Subject we next aſſume the ſecond conſequent involved in the Conſtitution of a perfect Ordinance. *The Delinquent*, which although ſeeming totally concerned in the regulation of the Penalty to the Nature of the *Offence*: and in poſition of a Fact implicitely therewith included as one common Individual: yet ſince the Rules of Nature, as well as Policy, have lent peculiar Diſtinctions to ſeveral Members of a Community (not falling all under one and the ſame meaſure of Capacity, and therewithal, as ſpecial Graces to their Dignities or Infirmities, inherent Priviledges; it will be requiſite to weigh how far ſuch Freedom may conſiſt with the integrity of a perfect Ordinance. Omitting to diſcuſs on the Prerogative of Princes, as being a Subject of too vaſt a Latitude to be a branch of a peculiar Treatiſe, as alſo that they ſeldom agitate, but by their ſubſtitutes, who falling under the ſubjection of a Law, are not alwayes ſecluded from the common courſe thereof; or if ſometime they be, it ſeldom under ſhelter is of the Authority of a Law, of whoſe equality we only are in ſearch. We will proceed to agitate on the ſubſequents ſequeſtered either in Goods or Perſon, from the attainture of a publick Ordinance, by Virtue of their eminence, under three Principles, *Peer*, *Prieſt*, and *Publick Miniſter*.

The *Peer* pretendeth for the ground of his Priviledge in relation to his Perſon, the neceſſity of his Attendance on the Prince, as the eſſential Luſtre to his Majeſty, in Reference to his Goods, the vaſt expence which follows this his Aſſiduity.

To which we may Object, that the Luſtre of a Princes Majeſty conſiſts not altogether in ſuch titular Diſtinctions, but in the Virtue, Integrity, Wiſdom, Gravity and Civil Reverence of his Miniſtry, which were yet more illuſtrated in the diſclaiming ſuch a Priviledge.

The *Prieſt* in right of the protection of his Perſon, pleads the Dignity of his Function, as not ſubordinate to the *Civil Mini-*

Miniſtry. For diſpenſation to his Property: the ſanctified uſe thereof divided in the Inherence from the *politick* Body. This claim hath formerly been the ſubject of many violent and ſome tragick Conteſtations, licenſing the appeal of Prelates to Eccleſiaſtical Conclaves in matters of *Civil* Juriſdiction: but ſince this uſage is at preſent of no force with us: we will not much inſiſt on the Diſcuſſion: only thus much we may thereon infer, that if in honor of their Function there ſhould be this peculiar Reverence due unto their Perſon, or Reſervation to their Properties, it equitably muſt be under this Diſtinction; ſo long as they contain the Action of their Lives within the Limits of that Holy Exerciſe, and their Poſſeſſions thereto only Relative.

The Publick *Miniſter* may ſeem to lay a more legitimate Title to ſuch Priviledge, inſomuch, as of neceſſity, his Perſon is to be ſecluded (in a manner) from the *Civil* Frame, to giue attendance ſoly in the moſt material Intereſts thereof: In which Agitation the Faculties of his minde are wholly ſo ingroſt, conveniently they cannot be relaxt, or yet diverted by a uſeful reflection on his own: yet in reſpect that ſuch immunity may ſeem to queſtion the integrity of the tranſactions of his private Commerce: whoſe Life ſhould ſo far be from all ſuſpicion of Reproach, that it ſhould be exactly exemplary. His Inſtitution will be more agreeable and Injunctions valuable in their apprehenſions, to whoſe advantage he is deſign'd to Agitate, if therein equally concerned with the reſt. Nor can it be of uſe to him, ſo to be ſheltred from the Iſſue of the Law, whoſe proper Dignity ſpeaks him a Law unto himſelf, it being an unequal ſuffrage that lends Authority to any man to *agitate of Common Rights*, who violates the Image thereof in his private Dealings.

The Subjects ſecluded from the common courſe of Laws, in favour of their Incapacity, have a more rational claim to ſuch Priviledge, As a Wife, Children, and Servants, whoſe perſons in ſome caſes are diſpenced from the Penalty of publick Diſobedience, as ſubordinate Members to a more diſtinct Head, who only is reſponſable to the publick for their Miſcarriages, freed from the ingagements of their private Contracts, inſomuch as their Dependance is upon anothers Property, in their poſſeſſion only but in Truſt. Lunaticks and Ideots yet juſtly reach a vaſter Latitude of excluſion in their Acts (wholly divided from the *Civil* Frame) wanting the Faculty to diſtinguiſh them.

The third and laſt Collateral implied in the Letter of an exact Ordinance, is the *Injured*, of whom moſt penal Statutes hold but ſmall account, regarding more perhaps the Conſequence of a publick Diſturbance, then of a private Inconvenience.

nience: To which Model the former Inſtitution of *Moſes* ſeems altogether faſhioned, *An Eye for an Eye, and a Tooth for a Tooth.* This Law, though equal to the Treſpaſs, and ſevere to the Treſpaſſer, yet the ſence thereof explicitely not ſeems to bear the fulleſt extent of a perfect Ordinance, inſomuch as the chief Relative is not concern'd in the Contents thereof; regard herein being only had unto the Offence, and Offender, *An Eye for an Eye, and a Tooth for a Tooth.* What Reparation hath the *Injured* hereby, except that Eye or Tooth, which is the Penalty of the Offence, could be reſtored ſo to the defective Part, that Nature might aſſume the Exerciſe of her Faculty: But in matters of Treſpaſs where there was a more feiſable Reſtitution, *The injured had a double Reparation.*

The common neglect of this Rule in Right hath rendered the perſuit of Juſtice irkſome, in that her acceſs is more penible, then is her Iſſue ſatisfactory: ſo that moſt men (unleſs poſſeſſed with an inveterate Fury of Revenge) had rather (to the encouragement of Oppreſſion) ſuffer ſilently, then for a ſmall advantage procure unto themſelves a weightier Injury, or elſe (to the Diſturbance of the publick Peace) provok't, are thereby to become unequal Repairers of their private wrongs. Which notion, that we may form more clearly to our obvious *Miniſter:* We for a cloſure to the Agitation of our preſent Subject, may gather from a clear perpenſation of our Argument, *That a Law compos'd exactly equal, muſt hold a juſt proportion with the Nature of the offence, in reference both to the Publick and the Private Intereſt, extending the tenure of the Impoſition univerſally to every Civil Member of Capacity, with full and facile ſatisfaction to the Injured.*

XXII. *The Knowledge of the Laws.*

THis Coherent is ſo eſſential a Conſequent to the juſt impoſition of a Law, that therein is compleated the true demenſion of her proper Nature, *Without the Light of the Law* (ſayes the Apoſtle) *I had not diſtinguiſhed the Offence.* And how that offence is not diſtinguiſhable, ſhould juſtly fall under the conformity of a Law, is a Myſtery not fully cleared in Divinity, Whoſe Rights (perhaps extend unto a vaſter Latitude then Civil Ties can fairly figure a pretence unto. The end of the Law is the union of the people, whereto ſuch regulation is the band: which band can frame no firm Conjuncture, unleſs the Virtue thereof equally be diſpenc't to every part. This alſo ſeems implicitly inferred on the firſt warrantable Inſtitution thereof, in the aſſent to the Reception: if we allow a rational Faculty to them therein concern'd, under which Attri-

bute

bute, no one approving that, whereof he is not totally inform'd, to which these contingents following are most materially effectual, *That the Law in Letter and Sence be generally intelligible; Concise in the Composure. And universally imparted in the Publication.*

Under the intimation of the Letter is comprised the Figure or Orthography thereof, and the distinction of the Tongue. The one may in propriety seem to have an unalterable relation to the other: which are proper to the composure of a Law, That every one may distinguish what he is to observe.

Perhaps hereto may be alledg'd, that the Mysterie of Civil Rights may as plausibly be restrained from the conception of the Vulgar, to the advantage of their Temporal Welfare, as those are of Divine, to the advancement of their Spiritual; since they both meet in one Intention in the Restriction, which is to avoid the Damage, may ensue the siniſter exposition of the Ignorant: It being a general frailty co-incident to humane Nature, o're partially to rely on the sufficiency of his affected faculty, and had rather run the hazzard, may follow his Infirmity, then to betray his weakness in his doubts.

Omitting to discuss whether the Proposition be receivable, either in the Nature or Comparison thereof: the *latter* with us being totally rejected, and the former (as posited) not without Reason much to be suspected, since Reason (whereof all men have some Capacity) ought to be the common Rule to every perfect Ordinance in a *Civil* Jurisdiction: but in the Agitation of Spiritual Principles, Reason (as meerly humane or vulgar, reaching no higher Object then the Sense) may in Reason seem to be excluded: allowing yet for granted, that both in *Civil* and *Divine* Transactions, as well as *Physical*, it safer is for the Practitioner utterly to be Ignorant of the course thereof, and soly to rely on the due Information of another; then knowing little prosecute the Direction only of his slight inspection to his proper prejudice: Yet nevertheless to the exact solution of our doubts, as well in *Civil* and *Divine*, as *Natural* Subjects, a certain measure of knowledge must therein of necessity precede, not only to form an Apprehension of an error in our selves, but also properly and usefully to figure ours unto anothers apprehension; else in the obscurity of our Demands, the most material circumstance (through Ignorance) not inserted, Authentick Instructions will but possess us with more confident Assurance, yet rashlier to intrude our selves into more error.

The next Subject in course to be insisted on, is the *Sence* implyed in the *Tongue* and *Letter* of the *Law*, that which should be perspicuous to every ones capacity therein concern'd, is so essential a dependent on what we have concluded in their discus-

sions, that they all seem but to form one and the same consequence united or divided, only to this doth properly belong more weight, since the obscurity *Hereof* may even to the Master of the Mystery, not seldom figure an Ambiguity, which often subject to corruption, may frustrate the intention of the perfect Law, under the shadow of *Her* own Authority: and so not only shelter the Practices of fraudulent Ministers under Her Warrant, but make Her sacred Image a common Prostitute to each sinister end. On which to enlarge since we perhaps may in the ensuing section meet an apter Subject. We will desist here farther to persue.

Furthermore the *knowledge* of the Law being admitted necessary to the due observation thereof, it will also be thereto requisite, that *Brevity and Uniformity* in Structure, accompany the Perspecuity of the *Letter*, *Tongue*, and *Sence*; in that the Soul (while closed in our frail Investure) must use an Object not alwayes present to form the Intellect, else Inanimadvertance will often meet in one and the same consequence with ignorance: As also, in respect that most mens occupations will not admit of so much vacancy as to persue volumnous or Introgate Insertions: according to which model was composed the sacred *Law*, inscribed by the hand of our Creator: In number only ten, in order admirably regular. Inserting first the unquestionable Authority *thereto* in the preface. Then dividing the nature *thereof* into several Objects, Divine and Humane. The most material Injunctions preceding the less consequent. And to every one whose weight was not sufficiently implyed in their Nature, annexing Reasons to disclose their ground, which nevertheless was by the Holy *Institutor* of the *Gospel* contracted to a briefer and a plainer method, lest Ignorance or Oblivion might in the infringement figure an excuse to evade the penalty. Those Indians (whose natural Rules of Government seem to excel, in Happiness and Innocence, the most probable Pretences of the nicest Models of imaginary Commonwealths, in that their Actions are so far removed from the actual Error of our Common Crimes, they know not learns to insinuate their Nature) have but two Principles to direct their Actions, *To be loving to their Wives, and valiant against their Enemies*: which daily are recited and illustrated by the most venerably Aged of the Family.

3. To the general concurrence of all which Positions must necessarily also follow the due publication of the Law, which lends to a Prescription that high Attribute: the Law is else at highest Estimate but a concealed Light, the use whereof was figured to us in the first Publication of the sacred Law, which was delivered in Thunder and Lightning: And the Institution *thereof* after celebrated by a solemn Convocation of the united

mul-

multitude with sound of Trumpet, and the Contents engraved on their daily Vestures. The Antick Roman manner of Communicating their Edicts to the people, was to suspend them in a Table of Brass in every place of publick Intercourse.

XXIII. *The Insubversion of the Law.*

THis highest Dignity to a *Prescription*, is the Stability to *Her* Position, and the greatest Grace unto *Her* Efficacy, is the Preservation of *Her* Purity: *that* implyes the Base thereof to have been cast upon a solid Consultation, *this* intimates the Integrity of *Her* Ministry in a due Administration: not that in reference to the *first*, it is warrantable so far to rely on any humane sufficiency, as thus to search into the nature of a Rule, which form'd to the occurrences of differing Times and Persons, may sometime plausibly be reform'd, suspended, or repeal'd, though we're so perfect in their Constitution, as may appear, *In the Jews Dispensation with their Sabbath*: when on the advantage of their cessation therein from their Arms, their Enemies had almost extirpated the Nation: which infringement was afterward allowed warrantable by exposition of the *Fulfiller* of the *Law*, either on necessity, according to *Davids* pattern, *In eating the Shew-bread*: Or on the pursuit of a better work, in Reference to *His own*, *In healing on the Sabbath-day, the Sick*. But that such a Stability illustrates the essence of *Her* Nature, suffering more frequent and exacter Proofs of *Her* Perfection. In reverence whereof, repulsing the violation of all loose Attempts. To which establishment should also joyn the endeavours of the Institutors, lest every wavering Motion of the giddy Multitude should prejudice the Institution. On this Intention, it is probable, *Were sworn'd irrevocable the Decrees of the Medes and Persians*. Or in regard of the *latter*, that it is possible to preserve from Corruption, any Precept (though more outward) which falls but under usage of our frail *Society*. But that an exact *Ordinance* should either be invested in *Her* proper Constitution with such influence, might keep Her Obstruction regular; or thereto borrow vigour from some collateral, without the penible vigilance of the Institutors o're the Transactions of their substitutes. In pursuit therefore of the premisses, it will be requisite the *Law* should make Provision against these Particulars. 1. *Their open Violation*. 2. *The obscurity of their sence*. 3. *The Repugnance of their Nature*. 4. *The Fraudulence of their Ministry*. 5. And *the Custom or usage of their Courts*.

1. The Vigour of the *Law* extending not beyond the Precincts of their Jurisdiction, implyes the *object* of their safe-

guard

guard from *open Violence*, formed in their Nature, can only be *Inteſtine*. The moſt frequent and viſible ſources of *Civil* Inſurrections, which in their material conſequences may reach at the ſubverſion of the *Civil* Frame, are either *Private Broils*, or *Publick Diſcontents*. The firſt is verified in the Conteſtations betwixt *Sylla* and *Marius*, *Cæſar*, and *Pompey*. And although ſuch Debates ſeem rather in their Iſſues, to ſtrike at the Foundation of the Government, then Conſtitution of the *Laws*, yet are theſe ſo nigh Relatives, the one can ſeldom be ſupplanted without ſubverſion of the other: as appears by *Cæſars* reply, when ſeiſing on the Common Treaſure, was objected to Him, the Legal Inhibition to ſuch violence, *What do you inſtance Laws to us, who wear Swords by our ſides?* The mannagers of ſucceſsful Arms are oftentimes tranſported with ſuch inacceſtable, and irreſiſtable Preſumption, allured thereto by their flattering fortunes, or compell'd by the exigence of indirect Engagements. That the progreſs of their Actions is ſo far removed from the reſtraint of any Legal Preſcription, they ſeldom are contain'd within the bounds of their own publick Manifeſts, or yet the ſecret Motives of their firſt Intentions, witneſs *Bullingbrook's* Proceeding *on the Infringement of the Decree of his preſcribed Exile, on pretence only, but to be inveſted in his Fathers Dignity and Eſtate: but he perceiving the fluent concourſe of the people to Him to advance his purpoſe, became thereby ſo much encouraged to higher enterpriſes, he could not be reſtrain'd by any Tyes, Civil, Divine, or Natural, until he had ſupplanted his abandon'd Sovereign.* The ground of this his Exile therein confirming juſt, which before was ſo only in ſuſpition: in which reſpect it will be requiſite, that ſuch *Decrees*, whoſe Inſtitution have this *Object*, be indued with ſufficient vigour to ſmother ſuch emotions in their Infancy, timely reconciling, or impartially expelling both Enemies and Emulators from the publick *Miniſtry*, leſt, under ſufferage, longer times ſhould form a Faction not ſubject to the regulation of ſo ſlight a faculty.

Publick Diſcontents gather more ſlowly and imperceptably to a head, but are more violent and ſudden in eruption; and ſeeming more plauſibly commenced, become more licentiouſly proſecuted, being pre-poſſeſt with Indignation, both againſt *Miniſters* and *Miniſtry*, inconſiderately without diſtinction, totally reverſe the Inſtitution of either; *As may be inſtanc't in the proceeding of thoſe Tribes revolted from the Government of* Rhehoboam, *with him forſaking both the Temple and the ſacred Ordinances.*

The obſcurity of the ſence, wherein an Ordinance is expreſſed, may ſometime meet with ſuch an Ambiguity, that either in ſuſpence, or expoſition, may utterly ſubvert the intention of a

Law.

Law. Words (in the most proper usage taken) can figure but a shallow and an abstruse Character of the minde: so that the best digested method of delivery may probably (in the first Purity) through ignorance or malice, unadvisedly or intentionally be prevaricated, more probably not stand so many Ages uncorrupted, as would require a perfect *Ordinance*. The words *thereof* in time, not only growing out of use, but also the proper Emphasis of the *Tongue*: from whence perhaps are sprung so many Controversies in Courts of Judicature, and Schools, as hath made that Law and Learning was first useful and venerable, now become noxious and ridiculous; so that he is now accounted as insufficient an advocate, that cannot make a bad Cause good, by his *Schicanrie*, as he an illiterate Schollar, that cannot so disguise a fallacy, as to make it appear true by his Sophistry, with how much damage to the people, and indignity to the Majesty of a *Law*. Such slights are sheltered under the abstruseness of the *sense thereof*, we leave every one to judge, believe, or Prove.

Perhaps hereto may be objected, that the Nature of the *Law* so frequent is in use, the Virtue *thereof* cannot lie conceal'd, but daily is revived by some occular Proof.

Omitting to insert the hazzard of a *Light* educ't from such Collation, in that the circumstances rarely meet in a conformity, we farther may reply, that ev'n in revolution of many Ages some *Laws* meet not with any accident so fully toucheth every clause therein, as might render the issue fully clear: nor also any clause contain'd in every Law, doth clearly answer every accident, may possibly fall under the proper object of the same, as may appear in *Moses Appeal to the Almighty, for the decision of the claim of Zelophehad's Daughter in the common parage of the promis'd Land*: In which regard, few *Laws* can be produc't, are so exactly constituted, that will not often want enlargement or enlightning.

Laws in repugnance of their Nature tend yet more visibly to the subversion of *their* Institution, the which at first inspection may perhaps appear so gross an absurdity, as is hardly credited to be feisable in the deliberate result of a rational consultation. Yet when we shall more strictly search into the constitution of their parts, in reference to *their* proper use and ends, we shall finde, that not only in respect of one another, Laws often meet this Impropriety. But also (in relation to *their* proper purposes) prove sometime contradictive to themselves.

Laws In their Dispensation pass through many hands and therein oft more subject are to alteration of their true *Intent*, unless the course thereof be strictly and severely visited.

XXIV. *The timely Issue of the Law.*

IF the *Law* were exactly compiled to the precedent structure, or according to what other Attributes imaginable, more properly might conduce to her perfection, yet if the Issue were not seasonable, the Institution scarcely could be useful. If the grace of a private Benefit consist in a seasonable contribution, the glory of a publick Ordinance must be raised on a timely Execution, *The Importunities of the Widow might make perhaps at length Her Cause successful:* But the Ministry of Her Judge was not crowned with the Merit of her succour. All Courts of Judicature have their proper Capacity of Receit, and if thereto succeed not timely issues. Continued Affluence of Complaints will suddenly beget Obstruction, Confusion, or Corruption.

The common Obstacles to the Progress of most *Laws*, after a suit commenced, are 1. *The licens't silence of the Agitators.* 2. *Appeals, or Removes.* 3. *Writs of Error.* 4. *Demurs.* 5. *Cross Bills.*

How which should in their use be regulated to remove all Impediments, which might obstruct the timely Issue of the Laws, we soly shall remit unto the Vigilance, Inspection, and Authority of their Institutors, declining totally their formerly design'd enlightning in particulars (though to the visible defacing of those Ornaments, might perhaps more essentially have lent both use and lustre to the contexture of our *Treatise*) as a *Civil* Presumption not to be licens't by the most Licentious, lest the misprision of the procedure might possibly not only have blemished the intention of the Agitation, in the Censure of the soundest Judgments; but under the incapacity of the vulgar, have utterly made void the object of our *Enterprise*, perverting to their Prejudice what only was designed to their Benefit.

XXV. *The easie Persuit of the Law.*

WEre the Laws perfect in their Constitution, and timely in their Issue; yet to them their Ingress and Progress is inaccessable, *their* Virtue cannot be communicable, so consequently not generally useful, the proper object of a perfect Ordinance.

This *Subject* hath more peculiarly for Object the Impotent and the Indigent, in reference either to the remoteness of their Residence from the Courts of Judicature, or their disability in substance.

To remove the first Difficulty from the persuit of the *Law*,

two methods only are in practice, either to constitute several Courts of Judicature in several Shires, Counties, or Provinces, or from the Capital Courts of Judicature to communicate the Virtue of the Law (in vacant seasons) to the remotest Places of the Commonwealth by their peculiar Ministers prescribed Circuits. The former course, as now in use not fully reacheth the Propriety, insomuch as distinct Courts of Judicature so posited have still relation to the Capital Court, and can definitively determine nothing, their sentences receding by Appeals unto another Court: In which receding the Subject suffers still more prejudice then attaineth ease. Our justicial Circuits more probably might meet a happier issue in the intention of their use.

To those that by reason of their indigence have not capacity to prosecute a Reparation to their grievances, most *Civil* Jurisdictions do provide redress under *Formâ Pauperis*, which questionless more fully meets the intention of the use, where distinct Courts have only reference to the Institution.

XXVI. *The Nature of a Law.*

ERe we had qualified our *Civil Ministry* with those essential Attributes, which might lend Ornament and use to *Her* Investure, it would have first been requisite to the exact simitry of our Structure, to have enlarged more peculiarly on the true Definition of her Nature: But finding no material Mystery therein, we have persu'd the Order of the Letter, In favour of the Propriety of our Tongue, prefiguring the shadow e're we disclose the subject, and here accordingly give place to *Her* Distinction.

A Law is a prescription, or a Rule impos'd by the Supream Authority of a Nation, on every Member of Capacity, within the Limits of the Civil Union, to restrain each mans Actions from the Prejudice, and guide them to the mutual Benefit of one another. So that we may positively affirm, as reason is seated in the natural Body for the direction of the active Members to their proper use, and *Ministry* to the rest: so the Law is constituted in the *Civil* Frame, as a due conduct to our private Rights, and common preservation; neither can there be any proper distinction in their Faculties, both issuing from one source, and directed to one end; only Nature in that, form'd *Her* Jurisdiction in a smaller continent; which Policy in this extended to a vaster Latitude. And what the *first* composed only to one, and for the benefit of one, the latter constituted to many, and for the advantage of many; from which consequence we may conclude, that as *Nature* proceedeth in the erecting

cting of a light to guide her *Ministry*. *Policy* must follow that visible light to the direction of *Hers*. *Laws* totally diveſt their Nature of their proper Uſe, and Dignity, when they but ſwerve from Her Preſcription: A proof whereof we perfectly diſcover in the Conſtitution of thoſe Commonwealths, which live only according to the firſt purity of Nature, wherein thoſe common Crimes againſt which our *Laws* have formed their ſevereſt vigour, have not ſo much as Intimation in their *Letters*. To this the Apoſtle yields his evidence, affirming, *That ſome not knowing the Law, performed theſe things contained in the Law, and were a Law unto themſelves*. Informed by that innate Light of Nature, Reaſon in her uncorrupted Purity, which ſecretly did prompt them, *To do unto others, as they would that others ſhould do unto them*. But when man fell from the Rules of Nature to live according to Art and Opinion, he wreſted *This* Light to their adulterate uſes, and guided *That* ſhould have directed him.

Farthermore, every perfect Ordinance extends It ſelf to the two foreſaid Objects, *The preſervation of a diſtinct Right*. And *The Advantage of a mutual Benefit*: as they are to be enfolded in one Rule, ſo they muſt not be divided in their *Miniſtry*. The juſt Intereſt of one muſt not ſo ſtrictly proceed, as to ſubvert the exiſtence of another: Such ſeverity would utterly pervert the Nature of a Law, rendring *Summum Jus, Summa Injuria, The utmoſt Right the higheſt Injury*. In which regard, perhaps the Inſtitutors of our *Law*, foreſeeing the difficulty to unite theſe Heads in one Preſcription, have divided them in their Natures, conſtituting diſtinct Courts to the peculiar *Miniſtry* of either; ſtyling the one, Law; the other *Equity*, *This* only form'd to moderate the Rigour of *That*. *Moſes* Moral Inſtitutions had in every particular an eſpecial regard in regulating the extreams of *Civil* Rights; *One man might take anothers Coat for Pledge, but was inhibit ed to retain it longer then till night*. Perhaps, leſt he not having other ſhelter to defend him from the Injury of that ſeaſon, might poſſibly thereby incurr the hazard of his Life. *In matters of private loan, all uſury was interdicted*: Preſiguring this courſe ſhould only be applied unto neceſſity, no *Miniſter* to Lux or Avarice. And he that was reduc'd to the extremity of borrowing only to ſupport his Life, could probably make no ſuch benefit thereof, as to return it with advantage, without impeaching farther the viſible means unto his Preſervation. *All contracts for Lands and Houſes* (in ſome caſes) *had their Period of Reſtitution, which was the enſuing Jubile*. In reſpect, that one mans unlimitted enlargement, how juſt ſoever in the Acquiſition, ſhould not reduce his joynt Aſſociate into indigence.

XXVII. *The*

XXVII. *The several Objects of the* Law, *in Reference to the* Security *of the* Natural Union.

THE Life of man is the union of two differing Subjects, Matter, and Form: The improvement of whose Faculties (distinctly taken) may consequently have two several Objects, in reference to the said Division, *Natural*, and *Moral*. But since (joyntly taken) the one can seldom suffer an Impeachment, without a prejudice to the other. The Security of *Both* will meet in one Principle. The common Agents of the dissolution of this *union*, which sometime fall under the capacity of humane Remedy, are *Wilful Violence*, *Sickness*, *Want*; of which we will discuss in order.

XXVIII. *Wilful Violence.*

AS this *Subject* hath in regard of our Order, attained the preheminence of Position, so in Respect of her Nature, it requireth more eminence in Opposition: No Act can so much blemish the Dignity of a Civil Government as this (simply taken) in that it seemeth to usurp the Authority of the Civil Jurisdiction, in assuming an impartial satisfaction to the distempered will. The first Curse Man incurr'd, was for his Disobedience to his Creator, which in the Issue found an advantageous Cure. The second Curse befel Him, was for his *Violence* to his Brother, which Visibly ne're met an Absolution. God the immaculate Essence of Justice, herein seems jealous of the Rights peculiar to his sacred Ministry, reserving only to himself this high prerogative, *Vengeance is mine*. Nor can the *Law* (without a blemish to this Image It represents) resent the unjust encroachment on her Rights herein with less severity. But to discover the degrees of this exorbitance inherent to *Her* Nature, it will be requisite to visit *Her* effects in the Distinction either of the *Subject*, *Manner*, *Place*, or *Measure*.

The first *Subject* considerable, on whom a violence may be practised, is (according to the Rule of God and Nature) that which each man acts upon himself: The ground whereof is hardly evident to a moral sence, which only measures the regularity of the exteriour Actions, according to the damages sustained by another, prefiguring, without such Reference, each man might justly claim a priviledge in the disposure only of his own: in which regard perhaps the *Ethnicks* have assumed so much Glory from this Enterprise, hereby, as they conceiv'd, triumphing o're the Malice of their Fate, though peradventure

the Temerity might (more equitably according to their own Rules) merit the reproach of Lachety, then the applauſe of magnanimity, ſince ſo ignominious an Evaſion, betrayes not only the abjectneſs of the minde, but the infirmity of Nature, as well in the Anticipation of an evil, by an irrational Apprehenſion, as in the diſtruſt of our Faculties, to undergo the encounter. The exerciſe of Fortitude is oppoſition, not flight: But yet this Conſequence, if aſſented to, will really not reach the Nature of this Crime: we therefore muſt make uſe of higher ſpeculation to the Diſcovery. To aſcend thereto, if we ſhall make the firſt ſtep on the Baſe of Natures Rules, *This Act* will totally appear repugnant to her Order, *Chaque Choſe fuit ce que la deſtruit. Every thing doth flye that which would it deſtroy.* If it infringe the Inſtitution of Nature, then conſequently the firſt and moſt general Decree, that ever was impoſed by our Creator. If we look into the Letter of his Law, which may be thought more nighly to concern us. We ſhall finde the Intimation *hereof* infolded in a general Inhibition, *Not Kill*, If we ſhall yet ſearch into the Nature of the *Fact*, by the Collation thereof to the preceding Actions of the Practiſers, we muſt conclude, that it will ſeldom be found other, then the iſſue of an irregular Life; wherein the all-ſupporting Influence of our Creators Grace ſeems totally retracted, as may appear in the prodigious Lives of *Heliogabolus Caricola*, and others: In oppoſition whereof, if we ſhall reflect on the Actions of *Brutus*, and *Caſſius*, we may affirm, That *Cæſars* Murther (how fairly ſoever poliſht with pretence) ſo far eclipſt the Beauty of their former Virtues, they cannot win (in an impartial Judgement) ſo much credit to lend their Lives or Ends ſo much diſtinction from the reſt, as to give weight to an Objection. From ſacred Record, with more Authority perhaps, to theſe may alſo be annexed *Saul*, only therein we meet with *Rhaſis* example, whoſe unblemiſh't life, and high approved end (though by himſelf advanc't) may caſt ſome ſcruple on our Argument: yet ſince this falleth under the Relation of an obſcure original. And under the Pattern of a tranſported Scale, we thereof not admit, as a fit ſubject to a farther diſcuſſion: only the life and end of *Cato Uticenſis* may afford a Proof without exception, where no Diſpleaſure ſprung from his proper Intereſt, found the leaſt motive in his Reſolution: but ſince the Actions of his Life had more refin'd Reſorts, then humane ſence can probably diſcloſe, ſoaring a pitch beyound the Practice of a Parallel: we will, in honour of the *Object* of his Paſſion, forbear to inſiſt on the Concluſion.

Yet if we ſhall perſue the inward trace of this Diſtemper more peculiarly, and pry more narrowly into the ſecret ſource thereof,

of, we queſtionleſs ſhall finde it evident, that from the prepoſterous Conjunction of repugnant Paſſions (Fear and Anger) iſſueth ſelf-diſlike. This miſpriſion of the work, at length begetteth a contempt of the Artificer, which ſince it can reach no higher, preſumptuouſly attempteth to deſtroy his Image, betraying in ſuch diſobedience, the truſt which was impoſed for her ſafeguard, anticipating the tearm of the ſurrender, *My dayes are in thy hand*, not in our own.

To which may probably be objected, that a man may ſometime be reduced to that exigence, which probably may figure an authentick Summons.

In reply whereto we may alledge, that ſuch extreams are not diſtinguiſhable to humane ſence, the Power and Providence of our Protector being unlimitable in the Meaſure, and inſcrutable in the Manner, *Snatching Daniel from the Jaws of the hungry Lion, and* Jonas *from the entrails of the Whale.* Nor is ſuch Grace diſpenſed, rarely or in favour only of his Prophets: as may be inſtanc't in * a Grecian Captain's *Delivery by a Fox from out the Entrails of the Earth, for dead, by his Enemies caſt in an Abiſs, from whence no humane Art nor Induſtry could have withdrawn him by a timely ſuccour.*

Having diſclos'd the Nature of the Crime, we ſhould proceed to figure the ere a due penalty to the reſtraint thereof: But as a moral Inſpection could not attain the Myſtery of her Nature, ſo no moral Inſtitution can reach the manner of the puniſhment; the Delinquent being hereby become impaſſable to *Her* Preſcription, remaining nothing inherent to his peculiar Property, whereon the *Civil* Juriſdiction can equitably be ſatisfied, but his Carkaſs and his Memory.

The ſubject next material in reference to a violence is the Natural Parent, without diſtinction, and not without a valid conſideration, there being not a more legitimate inherency to Rule, then that which is the immediate cauſe to our Production. And the more reverence owe we to *his* Dignity, in that our Creator deſcendeth to illuſtrate His Bounty to us, under *this* relation: In emulation whereof all Vertuous Princes have miſpriſed the moſt glorious Titles, in Competition with *this* high Attribute. To this moſt juſt Preheminence followeth ſo ſtrict an Injunction of Conformity, that the penalty of an Offence, ſhall violate this Right, but in a ſtubborn Retractory, or Indecent Oppoſition, was by the ſacred Law pronounced, Death: *Who hath a rebellious Son, that will not obey the voice of his Father or Mother, nor be reform'd by their Correction, their Parents ſhall deliver him to the Civil Magiſtrate, who ſhall cauſe him to be ſtoned by the people.* From which conſequence we may gather the Nature of that Crime by open or by ſecret practice, ſhall willingly attempt to reach at their deſtruction. In

In constituting Laws to the Restraint hereof, most Legislators have (in the primitive texture of their *Civil* Frame) been altogether negligent, either concluding, that nature had in such Relation too powerful an influence in her Impressions, to want the aid of artificial Ministry, or else reflecting on the common frailty of our Nature, which took more violence from restraint, forbore to agitate on such a Crime, as jealous to awake the faculty of Malice in such Discussion: So silently for many years, past unexprest, because unpractised, this *Fact* among the Romans, till time, which lends Maturity to our Corruption, produc't a Monster in her horrid Pattern, which then gave Light to this Infliction, *The Patracide was tyed close in a Sack, and cast into the Tyber.* A penalty perhaps by them esteem'd sufficiently severe, in that it figured not only a Division of the Soul from her frail Mansion, but an extinction. Yet e're we shall desist to agitate on our Subject, we farther will examine the Nature of this Crime, in Reference to the other Members of a Family.

Having discussed hereof in Relation to the Childrens Demeanour to their Parents, we may insist upon the Wifes unto the Husband; whom though the Mystical Ceremony hath united in one Body, *Affirming them to be but one Flesh:* yet nevertheless since *Civil* Rules have lent a difference of Dignity in the Distinction of Parts, most proper to the Constitution of their union. The nature of the Trespass may possibly in Reference to the Husband meet a weightier Imputation, and a severer Punishment.

Servants have a more subordinate Dependence on the Head of a Family, having from them their Livelihood, in Consideration only of their due submission to his Will. In contempt or repugnance whereof, if their demeanour shall proceed to act a *Violence* on his Person. The Crime more properly may be qualified with such Distinction, and meet such Punishment. In persuit of our Order, (should here ensue a like Discussion on that *Violence*, the Master of the Family should Act upon the Members. But since therein is found no legal Distinction in the Nature of the Act, from what is practised on other Members of the *Civil* Frame, more then the Infamy which justly followeth the Breaches of so nigh Relations. We will remit to treat thereof in our Reflection of the *Manner* and the *Measure* of a *Violence*.

To these succeeds in Eminence of Distinction (in Reference to a *Violence*) the *Magistrate* (under what degree soever being in Execution of his Ministry) in that, therein *he* fully seems invested with the *Civil* power, and consequenly the *Violence* so sustained, more highly ought to be resented by the Jurisdiction

to

to whom he doth officiate, as a contempt or Opposition to her Order: In which respect perhaps, this Fact (on Him) extending to a higher Consequence (then on the former Subjects) might justly claim precedence in our Order, to all those our preposited Distinctions, had not *Policy* succeeded unto Natures Order, both in her Pattern and Establishment. All other Persons of what Degree or Quality soever, Noble or Ignoble, Alien or Denison, in Reference to his Trespass fall in the Ballance of one common Estimate. The *manner* how this Trespass may be acted, well considered, will vary much the Nature of the Crime, lending there to more weight or less from whence the Penalty receives due Regulation. The common differences whereof may visibly be reduc't to these Distinctions, *Encounters*, *Duels*, *Surprises*, in the first Principle. The intention of the Agent (which soly lends material Consequence to the Fact) seems wholly disengaged. In the *Second*, the intent of both seems clearly pre-ingaged. In the *Third*, the intent of only one seems pre-possest.

If *Encounters* admit of a double Distinction, being such as are meerly *Casual*, having no farther motive then the present Accident or *Collateral*, having Relation to some former Difference; yet so as neither Time nor place were pre-advised of either: If pre-advised of Both (as oftentimes is practised, to shun the extream severity of the Law, disguising so the Action) then falls the Nature of this Trespass under the Distinction of a *Duel*: If but of one determined, the Fact may properly be tearmed a *Surprise*.

Casual Encounters, what e're the Issues thereof are, have the most specious pretence to plead for their Indulgence; in that the first motive of the incensed will is not oft-times within the absolute Command of the most regular minde, which herein but inform'd by unconsulted Appearance may facily seduce the Judgment to prosecute the sense: yet since no Imperfection how naturally soever inherent to our frail Condition (within the true Capacity of our *Civil Union*) can plead a priviledge to prejudice Another. Nor perfection (how supernaturally soever in any constituted) while yet a Member of this *Civil* Frame) can lend a just Authority to any, to be Repairer of their proper Damage; as appears in the example of our perfect'st Guide, In defence only of true Innocence: *Put up thy Sword, for he that taketh the Sword, shall perish with the Sword*. Nor can we, how justly soever commenced or prosecuted, exempt such Procedure from the Nature of a Trespass: yet under this Limitation, such only to the Publick. The private, herein totally excluded, insomuch as the Nature of the strife implyes an equal Opposition, if not in Power, in Will, and self-opinion of Sufficiency, where-

in if he be foil'd, he justly payes the forfeit to his own Presumption, who else declining the attempt, might legally have persu'd the Advantage of his Injury, without contesting for an equal satisfaction.

To which may possibly be alledg'd, that the *first*, most *just* and impulsive Law of Nature prompts every living Creature, (for their proper safety) to rise in Opposition in their own Defence. Nor is he half secur'd that relies only on the passive Part.

In answer to the objection we reply, the Law requireth but a visible declining from the Action, to acquit him of the event thereon ensues: To which, although perhaps *It* seems to have prescrib'd too vast a Latitude, as *to retreat until he can Retire no farther*: in which he probably may be slain e're he attains those Bounds. Yet other Circumstances that may reach the Intention of the Law therein, in Reason may acquit him unless the Interposing judge presume too much on his Authority to tye his Censure soly to the strictness of the *Letter*.

The trespass may hereon ensue unto the publick, is either in Respect of the Common Disturbance, *Breach of Peace*, or in Regard of the loss of a *Subject*, *Man-slaughter*. To *that* our Law hath equitably imposed Imprisonment or Fine. To this a total forfeiture of their *Goods*. Yet more effectually to the restraint hereof might possibly succeed the Influence of severer Laws, directed to suppress such Incivilities, as commonly are the Ground to such Disorders, in which most Civil Jurisdictions seem totally defective.

Collateral Encounters, by our Laws, are not distinguishable from positive *Duels*, though herein Time or Place concur not with the motive in the Intention. In that the Reference of a former Breach prefigures a Design to persue the event to which Occasion then administers, remaining still an unremitting Contiguity betwixt the efficient and the effect. Yet when we shall reflect on the Infirmity of humane Nature, which in the perfect'st Temper not alwayes is provided with sufficient Aids to check the suddain Motives of the Sense, but having often passively sustained the Indignity of the extreamest out-rages, may sometime be provok't to yield unto a less, the Spirits pre-disposed insensibly attracting the Flame, was formerly to them familiar, leaving no intermission for Discourse to agitate on Restraint of the transported will: as also frequency in Injury may possibly proceed to an irresistable Importunity: And in an Insolent Solicitation, exact that our will assents not to, *Potentia motata fit furor. Incensed Patience becoming fury*. Farthermore the Cessation, Interruption, or Restraint of the first motive probably may prefigure a declining from the Prosecution: so that

from

from a clear Perpensation of our Argument, may really be collected so visible a difference between this manner of strife, and pre-designed Conflicts, as may equitably lend a more moderate Distinction to the Penalty.

Duels may properly be extended into these Distinctions, *Extrajusticial*, *Justicial*, and *Private*.

Extrajusticial Duels are such as are Authorized by mutual Assent of two hostile Nations for preheminence in Honour, for the Decision of pretended Rights, to avoid in future, the effusion of more Blood, and other general Calamities too incident to War, though otherwayes successful: so were declined the Divisions between the *Israelites* and the *Philistians* by *David* and *Goliah*. So concluded the Contestation between the Romans and the Albans: by the *Horatii*, and the *Curatii*: Although the latter manner of Conflict may seem rather to approach the Nature of a *Skirmidge* then a *Duel*, which taken in the strictest sence, implyeth only single oppositions. These manner of Conflicts are so far removed from the subordinate suppression of a *Civil* Jurisdiction. That they are only grounded on support of the due Interest *thereof*. And from it rather merit (what e're the issues be) an eternal Monument of Glory, then a scrupulous Check. Insomuch as the Agitator totally abandoneth his proper Interest, in Favour of the publick Benefit. Other Military *Combats* of this Nature, having no Reference to the former Object, are but foments to vanity, and utterly destructive to the order of the Warlike Frame.

Justicial Duels, with us now out of use, have left but an obscure Original both to their Nature and their Institution; yet probable it is, the chief ground of their sufferance, was only in discovery of the Truth, where evidence sufficient was not visible, either in Decision of private Rights, or publick Impeachments. A Custom only form'd to supply the Intention of defective Laws, amongst scarce civiliz'd Nations; whose superstitious Souls more awfully were guided by event (* which visibly were often fallible) then the Light of Nature. And though this usage (holding Affinity with the Nature of a Law) may seem to borrow some Authority from sacred Practices, As *in Discovery of the Babylonian Vesture*, And *in Inquisition of the Breach of Sauls vow'd Fast*. Yet here the procedure hath only Reference to Divine Trespasses, which passing without *Civil* Punity, the whole *Society* sunk under Burden of the Guilt till It was expiated, which could no otherwise be done, but by disclosure of the Criminel, whose hand best found that was therby offended. But in discussion of our *Civil* Rights which reach no higher ground then humane Reason. Man must thereof acknowledge his just forfeiture, that shall conclude without It,

Lactant. de Ira Dei.

* Stowei *An.* 25. H. 8. *Liv. ab. v. c. lib.* 28

tempt-

tempting the Almighty to educe a Miracle to determine that, which he had granted means to attain unto.

Private Duels, taken in the ſtricteſt ſence, are only ſingle Combats, in Weapon time and place determinable, ſprung from no other ground then ſence of Injury, nor proſecute other object then Revenge, though Both oft-times ſeem meaſur'd by the reſentment of ſome others, more then by our own: Vanity the litigious pretender to Honour, muſt court her looſer Mother (vulgar Opinion) to attain his Proſtitute. A ridiculous Motive to an arrogant Aſſumption, pretending both to Right and Power to arbitrate and to Execute in out proper Intereſts, in Contempt or Miſpriſion of the *Civil* Juriſdiction: ſo that we may conclude, according to the Event, the Treſpaſs is from Others of this Nature, but diſtinguiſhable in an oſtentive Attribute, whether the extent hereof may poſſibly reach the Nature of a Murder, perhaps in *Civil* Rules, may be diſputable. In that the Intent, which ſoly is effectual to qualifie the Fact with ſuch Diſtinction, ſeems fully prepoſſeſt to uſe the uttermoſt Ability to take away anothers Life: yet, in Reſpect, the perſuit is with equal hazzard of our own, meeting like purpoſe in the Oppoſition, ſuch Attribute *Herete* too ſtrictly ſeems implyed, though not by Law for ſuch too ſtrictly puniſhed. First, inſomuch, as in ſuch Procedure, the injured ſeems to uſurp the Authority of the *Civil* Juriſdiction, in perſuit of his own unequal ſatisfaction, as alſo, in that the Tragick Iſſues of ſuch Conflicts often do engage ſucceeding Families, to their Incmnities thereon ſprung, in like Oppoſitions. Furthermore, in that ſuch Action paſſing with Impunity, may ſeem (with vulgar Voice) to conſtitute that Glory on a Crime, which ſoly ſhould be proper to a vertuous Enterprife.

One Controverſie, inherent to our *Subject*, yet reſts undiſcuſt, whether the *Seconds* (acting no farther then to ſecure the *Principles* from indirect Advantages, or treacherous practiſes may equitably be attainted by the Law, as Accezoir, or Complice to the Fact. In ſolution whereof, we may reply, That ſince the *Seconds* were privy to the Intention of the Principles, which they had power to fruſtrate by Information of the *Civil* Magiſtrate, they, as Collaterals, may be accounted guilty of the event, in favouring ſo their purpoſes.

3. *Surpriſes* (to moderate or extend their Nature) may be indu'd with theſe Diſtinctions, *Eſſential*, *Definitive*; or *Relative*. *Eſſential Surpriſes* are ſuch, as e're they are educed into Act, are formed pre-adviſedly in the intention of the Agent, beyond the Notion of his Adverſary, ſo that we properly may learn the Fact a treacherous Aſſault, with Weapon indiſtinguiſhable, be it Sword, Fire, or Poyſon. This is, without con-

contradiction, the highest and most damagable kinde of *Violence*, insomuch, as it leaveth none the smallest shadow of a visible security. The strongest hereby *becomes deprived of his* strength, and the wariest of his Caution. Nor can the undertaking meet a Cause, or Circumstance, might mittigate the Nature of the Crime. Amasa's *open Hostility with* Joab, *could not render the Fact pardonable in his Judgement, for whose Interest and Advantage it was finished.* Nor can *Parmenio*'s Treason, the *Guises* Indirect Ambition, or *D'Ancre's* Insolence excuse those Princes, who to avoid the casualty of their redoubted Power, have secretly and indirectly so contriv'd their Ruine: The course of Justice either must be prosecuted, or oppos'd, to form her Execution warrantable. If the *first* could not be persued with the publick Safety, the *latter* might be proved but with private Jealousie: Who submit not unto the empty Summons of a just Authority, may be concluded guilty, without a farther Deposition.

Definitive Surprises are such, which were not formed formerly in the Intention, but on a present Injury resented, persueth such unequal Advantages, either in Respect of *Person, Armature*, or *Number*, as are no way resistable. The *Trespass* in Reference to the former, can legally attain no valuable Distinction: insomuch as the irregular will can figure for pretence no motive herein to persue the Fact, but Malice, nor object thereof but simply Anothers Destruction, our proper safety not in Competition. Nor hath the assailed Faculty to avoid the Issue of such *Violence*.

Relative Surprises are such, wherein the Trespasser, through Negligence or Presumption, obliquely only is concern'd, as having under his Tuition, Guard, or Custody, the Subject, Beast, or Person, through distemper prone to act a *Violence*. This manner of wilful *Violence Moses* reflected on, though possibly not in so large extent, as totally might concern the Nature of such Accidents: Yet sufficiently to lend a perfect Rule to form an Ordinance unto the equal Prosecution of any in this Nature unexpress. *If an Oxe shall gore a man that he dye, the owner or keeper thereof being formerly advertised of such a disposition in the Beast, the Penalty of the Trespass shall be the forfeiture of his Life: but so, That for a certain sum of Money, as a Fine, his Life shall be redeemable.* The ground hereof is evident, being in regard the owner had capacity to have restrained them from such an Execution. To which, common humanity ought to have been a competent Injunction. Forewarned of the Danger of the Accident, but being altogether careless of the common safety, such Neglect or Presumption, might really be suspected to have had a reserv'd Object of some secret malice; to which in right, his life could only satisfie; yet in respect such Beast

or Person, possibly, might escape from the Endeavours of the wariest Guard, a fine might justly ballance such incircumspection.

The Reference of an intentional Instigation to a violence, might orderly seem reduced under this Distinction: but since such Procedure falls under common Notion of a Principle, we should too far swerve from the positive Rule of *Right*, to lend them here but a Relation to the Fact, another executes by their direction: the nature whereof more properly is comprised under Distinction of the *Essential*.

3. The *Place* wherein a *wilful Violence* becomes acted may also seem to qualifie the Nature of the Trespass, with Distinction to aggravate or lessen the exorbitance: In Reference whereto we will reflect on these Particulars, *The Temple*, *The Princes Residence*, or *Court of Judicature*, each *Mans Peculiar Habitation*, *Forreign Jurisdiction*.

The Temple hath in former Ages been held in so high Reverence among divers Sects and Nations, that the *Civil Jurisdiction* hath sometime cast restraint on her own *Ministry*, in persuit of Delinquents, taking their Sanctuary within the Limits of the sacred circumscription. If this high Priviledge were thereto constituted on an authentick Ground, how considerable a Motive will it be to induce the *Civil Ministry* severely to endeavour to secure this place from private out-rages. A *Violence* there seems more immediately perpetrated in the presence of that high Judge, who soly to himself reserveth Vindication, and consequently denotes a great Insolence in Contempt of his Ordinance. The high resentment whereof he seems himself implicitly to infer in his terrible Threats against the rebellious Jews deducing the vast Latitude of their Crimes should meet his Vengeance *From the Blood of* Zachariah, *who was slain between the Temple-Porch and the Altar*. Furthermore, this *Place*, erected more peculiarly to perfect and confirm our common union. Such Procedure there practised seems to strike at the very Nature of the Institution.

Private Divisions breaking into Actions of Hostility within the *Princes Residence* or Court of Judicature, highly exalt the Nature of Commotions: For that in such Timerity, the Agents seem totally to cast off the Imposition of the *Civil Jurisdiction*, violating so presumptuously the *Ordinances* thereof, under the immediate notion of her *Ministers*, which properly might seem to figure an open Insurrection against the *Civil Power*.

Acts of *Violence* perpetrated within the Limits of our proper and peculiar Habitation, reach also a Distinction, may properly extend the Nature of the Fact; each man possessing an Oeconomical Jurisdiction within the precincts of his domestick Residence,

sidence, so absolute, as in some cases; the *Civil* Power seems there to limit her just Procedure, allowing him it the priviledge of a Sanctuary.

Whither *Private* Acts of Hostility perpetrated under a Foreign Jurisdiction, may justly be subordinate to the Censure of our native Laws, or any other forth the Jurisdiction, wherein they were committed, is, in practice, negatively concluded: Yet in Reason, may affirmatively be asserted under this Distinction. If the effects of the Contention do reach no higher Nature then a Civil Trespass; the Civil Jurisdiction, wherein It was in Act, is soly therein interessed. But if the Consequence thereof extend unto a higher Nature, as to infringe the Law of God, Nature, or Nations, the guilt can equitably not be dispensed with by any other exterior Jurisdiction, constituted under the Conformity of such Ordinance, if legally therein prosecuted, In that although the Jurisdictions are distinguished in Power, yet have they but one Object in their Rule, in reference to the Trespass; in which respect mankinde may properly be said to form but *one Society*.

Farthermore, the Issue of the Fact extending only to a *Civil* Trespass may sometime possibly concern the Dignity of a *Jurisdiction*, wherein It was not executed; if primitively the Debate had there original and Intentionally transacted forth the Bounds *thereof*, but to avoid the rigour of the Law. Abusive evasions from the Intention of the Law, equitably meriting the penalty of a Breach.

4. The more essential consequence of a *wilful Violence*, whereat the Law most viseth to direct her Censure, is the Degree or *Measure* of the effect, accompanieth the Fact: insomuch as the cleerest Circumstance whatever is capable to yield but an obscure evidence of the intention, which really if perceptable might properly perhaps qualifie the Nature of the Trespass. As also in That, *This* alwayes answers not the Damage of the Injured, whose reparation is the Principal, if not the sole Object of Justice. As for the premised Collaterals considerable in perpensation of the Fact, *Subject, Manner, Place*, (simply, or joyntly taken) they reach no higher consequence then a *Trespass*, wherein the *Civil* Jurisdiction seems principally concern'd, which in it self indued with a Faculty to dispence a Grace (without the prejudice of the injured) may plausibly suspend Reflection from her proper Interests, to weigh the satisfaction of particulars, whose injury must questionless, fall under Latitude of these Distinctions. *A Forcible Interruption*, *A Simple Vulneration*, or *A Real Vulneration*.

1. *A Forcible Interruption*, Restraint, or Attachment, although it possibly may sometime meet with so important an occasion

as

as really may prejudice the Sufferer in his *Civil* purpose: yet doth the *Civil Jurisdiction*, in the Nature of the Treſpaſs, ſeem more eſpecially concern'd, whoſe ſole and proper Object is the Preſervation of the Publick Peace, which totally herein ſeems violated. The Penalty therefore (not without reparation to the injured) dependeth more materially on the Publick Satisfaction: yet in that ſuch Attempes may ſometimes meet with other Circumſtance, in *ſubject*, *Place*, or *Manner*, as poſſibly may extend the Nature of the out-rage to a Criminel Conſequence. The cenſure thereof ſometime properly may be regulated not only by the Event, but by a more eſpecial Reference to our former Diſtinctions, which alſo may be practiſed as a Collateral Rule in the Conjunction of all Degrees of Accidents in this Nature.

A ſimple Verberation may intimate a Blow, ſtripe, or Percuſſion, with, or againſt any thing, ſo ſlight, as viſibly not to produce a real prejudice to the Sufferer, wherein the Treſpaſs ſeems to put on more Appearance of Indignity, then Damage; and might perhaps be plauſibly repair'd in a due ſubmiſſion, were not ſo favourable an impoſition too ſlight an Oppoſition to the reſtraint of ſuch Commotions. And peradventure too forcible an Inducement to inſtigate the injured to proſecute a higher Satisfaction of his own Election to the Publick Prejudice. In which Reſpect, as alſo, that few men think their Honour ſufficiently repair'd, unleſs their Eſtates may therewith be improv'd, nor his Adverſary in fame impeacht, unleſs impoveriſhed. A more Eſſential and ſenſible Reparation may equitably be impoſed on the Treſpaſſer.

A Real Vulneration, or wound, is according to the Diſtinction of Naturaliſts, *Solutio unitatis*, *The ſolution of Parts*; whether it be by Suffuſion, or Effuſion of Blood, by Bruiſe, or Sciſion: which Accident may ſufficiently (for the uſe of our Subject, as the Object of Juſtice) be limited in theſe Diſtinctions, *Sine Læſione*, *cum Læſione*, *& cum deſtructione facultatis naturalis*, *Without Prejudice*, *with Prejudice*, *or with Deſtruction to the Natural Faculty*.

A Wound inflicted *without prejudice* to the Natural Faculty, beareth no other Inconvenience then the preſent Grievance, charge of the Cure, or obſtacle to the intercourſe of Civil Negotiation. The two *latter* Objects of Reparation may fall under a diſtinguiſhable Dimenſion. The *firſt* obſcurely is conceptable to anothers ſence: Not truly in the Nature valuable, ſince the agreeable fruition of the natural Faculties, may juſtly be eſteemed the moſt viſible Felicity.

A Wound with limited Prejudice to the Natural Faculty may reach a vaſten Latitude of Diſtinction in the Degrees thereof, then

then clearly is determinable; which, nevertheless may usefully be reduced unto these ensuing, *Either it perpetually disableth an Instrumental Member totally or in Part, or else a Principal only in Part:* totally, it cannot without subversion of the whole. Yet *lenta Tabe*, with a lingering Consumption. It possibly may advance our end. To regulate the Reparation thereof to the Offence (besides the former Objects) not only the Dignity and Use of the Member so impaired, is exactly to be ballanced. But also the Propriety and Consequence thereof unto the *Civil* Function of the maimed, forming from thence the perfect Measure of a satisfaction, as may his Livelihood, and his Families thereon depend; which though fully responsive to Both; yet the continual discomfort that eclipseth the Delight which should accompany the natural use thereof, is scarce repairable.

A Wound whose Nature or Consequence *extends* immediately to *the Extinction of the Natural Faculty*, without a Lenitive Circumstance to moderate the Disorder of the Fact (according to the Tenure of most Laws in use) exacts for Reparation an equal Infliction; yet the Nature of the Penalty herein seems soly formed Satisfactory to the *Civil Jurisdiction*: which in the loss of a Subject may alwayes not therein be totally concern'd; since possibly the Trespass may not only deprive a Family of a Member, but of their sole Existence naturally, wholly and immediately thereon depending.

XXIX. *Of Sickness.*

WHither *this* Infirmity be the successive Issue of our first Fathers Transgression, or the inevitable Condition inherent to our frail Composure, we will remit to the Debate of *Theologians*, and of *Naturalists*. The Object of whose speculation more properly the Proposition is, it only will be requisite to *Civil* use, so far to search into the Nature of *this Subject*, as may disclose the Impediments, may thence ensue unto the forming of a perfect Constitution in a *Politick Frame*, and the directest means to avoid those fatal Consequences. The Strength and Riches of a Nation most visibly depending on their useful numbers, and their useful Ability, so much as this common Calamity is prejudicial *thereunto* in either, so much *It* detracteth from the establishment of a common welfare: and though it cannot be denied, but that the Members of a *Civil* Body (without such Qualification) in Quantity exceeding, may possibly be a Burden *to it self*: yet have we not lent such Attribute to the Distinction, as if the sole Propriety *thereof* could any way consist in Reference only to Proportion: But to Quality, wherein

if we can form the Parts *thereof* but useful. The Quantity *thereof* will rarely meet excess. Nor can the deborcing Multitudes of *Goths*, *Huns*, or *Vandals* (which in declining of the Roman Empire, so frequently o're spread the Jurisdiction thereof in an Hostile manner) be accounted an eruption of the useful, but of the vacant and superfluous people, which needs no farther Argument for Confirmation then their sudden *Exit*. When *David* collected an estimate of the People, they were, according to the measure of their Limits, the most numerous and flourishing Nation ever was; when in his successo's Time, That his Accumulations had their Issue (*Silver was said to be as the Stones of the Street.*) And although this may probably be imputed an effect of his so frequent Victories: yet when we shall impartially reflect upon the real Acquisition of successful Arms, we shall conclude, that such Investures seldom are equivolent to their Charge. Nor was there a Defect of other Visible means to the supply thereof in *Civil* Commerce, which proves their Wealth was rather the Production of the mutual Industry of the *Society*,

So necessary a consequent to the Establishment of a flourishing State, It always hath been held to annex *Ability* to their Multitude, that this Consideration only formerly hath produc't a use, in * Commonwealths less Civiliz'd then strict, *To extinguish weakly and Imperfect Infants in their Issue*, which Inhumanity, although improperly provided in Persuit ev'n of their Politick Purpose, since there are divers *Ministries* in a *Civil* Texture, whose Perfections not always follow the Exteriour vigour of the Nerves: yet insomuch as both the vital and the Animal Faculties are educ't into perfect Action by the communicative Vertue of the *exact* Temperature of the Natural Constitution, The Breaches or Infirmities *Herein* either Native or Accidental, chiefly should be visited to be reduc't to such Conformity, as might most properly and happily conduce to the exact managing of every *Ministry* in a *Civil* Union.

To form an Institution truly regular to our purposed Objects, It will be requisite the *Civil* Jurisdiction regulate these Collaterals, The Phisical *Practise*, Habitable *Situations*, *Alimentary Provisions*, *Contagion*, *Excess*. The exact dispensation of Physick hath formerly been esteemed so material a consequent to the *Civil* welfare that divers of the Arabian Princes have been exercised in the Practice, as frequently and vigilantly as in the *Civil Ministry*. And in divers Commonwealths at present, where such a Procedure is not in use, the Princes Care and Cost are still assistant to so material a Provision: not only in erecting Hospitals to the due support of the Indigent, but also in the furnishing of vast Dispensitories at their proper charge

* *Lacedemonians.*

charge for publick Benefit: from whence we may collect, that to rectifie the *Physical Practise* exactly to the Civil use, we must persue two Principles, the *Medicinal Prescription*, and the *due forming of the same*. Which Functions although properly inherent to one Ministry, yet since the vast speculation of the Art and frequent attendance of the Artist, have perhaps usefully divided them. The *Civil* Jurisdiction may distinctly supervise their Practises. In Reference to the *First*, strictly inhibiting that none but of approved knowledge and experience, Integrity and Vigilance presume to advise a Medicinal Prescription: insomuch, as though the Nature of the Disease be simple and evident to every common sense, The Remedy also thereto known, and generally approv'd: Yet in Respect of many other Circumstances materially considerable to the useful Ministry (as Age, Sex, Constitution, Custom of the Patient, Temperature of the Climate, and Season, Time of the Disease, *&c.*) None but the Master of the Faculty (who only can distinguish their Properties) should equitably be allowed to dispence those Remedies, since failing in the slightest Caution, may possibly be product an error, equal to a Criminal Trespass: A proof whereof may here be instanced from *Galens* Observation and Practise, when in the untimely use of *Theriaque by an unadvis'd Physician, a simple Quartern was as he foretold exalted to a Trebble; while he remov'd all by their right use of the same Medicine.* Much greater hazzard must the Practise run in an unconsulted Ministry, when the Nature of the Disease is Compound, Differing, or Obscure, and the Propriety of the Medicine doubtful to the Director. *Galen de prac cog. 1. 23.*

That *knowledge* should be annexed to experience in the Endowment of a natural Minister, is so evident a necessity to the useful Issue of his Ministry, we shall not need to insist on any Argument to confirm the Notion. *Experience* without Knowledge being but a blinde, empirical, and uncertain Guide: and Knowledge without Experience, but an unwarrantable Speculation. That Integrity should also meet with Vigilance in the Qualification of this *Minister*, to render *This* his Practice truly profitable, is as visible and irrefutable a Conclusion, as the former; this being without that illusive; *That* without *This* ineffectual.

2. As the Nature of our *first* Caution in Reference to the Natural Minister requir'd a nice Election; so the Nature of the *Second*, In what is administred exacts a strict circumspection. Gain, the common Adulterer to all Arts hath here too licentious a Theatre to practise her Impostures, the traces thereof being ev'n to the most knowing scarce distinguishable: and rather may be suspected in the Effects, when as the hazzard is incur'd, then timely found, but to prevent the Issue. In persuance where-

whereof, since none can probably be endu'd with like capacity to the distinction of the Nature and propriety of Ingredients (on which dependeth chiefly their Adultery) as hath the Master of the Art: As also that his credit and advantage followeth the success of his Prescription. He seems in right most properly designed, and engaged to preside the Visitation. Yet in respect such Institution may sometime cast a Jealousie on the Integrity of the Procedure; in that their mutual Interests may often seem to hold too nigh Relation. We may to Him unite the *Civil* Minister in the Commission, who should be both sollicitous and frequent in their search, and on discovery of Adulterate or defective Drugs, to impose a rigorous Penalty. And least the Indigent should want those Aids to their support, (whose natural Defects meet frequently herein a *Civil* Damage) their livelihood depending soly on their Industry; it would be requisite, common *Infirmaries* were erected at the publick charge for their peculiar Benefit.

2. *Habitable Scituations*, either of Cities, Towns, Boroughs, or Houses, oftentimes erected are with disadvantage to the Natural welfare of the Inhabitants, either in their vicinity to Vaults, or standing Waters, from whence issuing, or ascending noxious Vapours, or Exhalations, the Air (that of necessity must yield nourishment to the Vital Spirits) becoming tainted, must insensibly and inevitably subvert the Natural Temper. The effects whereof are evidently distinguished in the Endemial or Vernal Recursions constantly of one and the same Malady: Which inconvenience seldom is avoided, but in the oblick Version or remote Transposition of the Structure.

3. *Alimentary Provisions* in their improper Assimulation too frequently prove prejudicial to the natural Welfare of the *Civil* Frame; which noxious Qualities they either originally contract from *The nature of the Soil, Accidental or Artificial Mixtures, or from their own proper Corruption.*

Original Attractions may evidently be discovered to us in our Waters, which running through divers Vains of Earth, or Minerals, e're to our vieu they make eruption, do oftentimes communicate in their use those hetrogene Infusions; so likewise Vegetives, attracting still their nourishment from the Soyl, communicate in their Distributions, the Qualities thereof too frequently repugnant to our Nature.

Accidental Mixtures may be infer'd in the usual concrescence of Grain of several Natures (as Cockle with Wheat) whose Qualities oft noxious to our Nature, not diligently divided, induce sundry Indispositions to the Natural Temper.

Artificial Mixtures may visibly be distinguisht in the several Adulterations of our Wines: then which nothing can be more

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prejudicial unto humane Nature: Nor nothing in our Nation more generally and frequently in Practise: which abuse in like manner also, may through Avarice or Malice possibly extend It self to many other common Alimens. The *proper Corruption* of our Nutritive Provisions follow most commonly the immature, or the unseasonable collection of the Fruits of the Earth, or the too long suspension from their use. So Corn becomes Musty; Fruits mouldy, Flesh tainted: The several use whereof, so qualified, produceth oft not only private Indispositions in our humane Nature, but general and Epidemical Mortalities.

Having distinguished the Nature of these Impediments to our common welfare, we should thereto persue a Remedy which, meeting in each particular several Objects (the Original Corruption to be avoided, the Accidental rectified. The Artificial and proper prevented. We will reduce them to the vigilance of a publick superuisor constituted only to that use, by the Authority of the *Civil* Power.

4. Without impertinent wresting the Etymology of words to distinguish the Nature of things thereby infer'd. Since such Notes are oft by the vulger improperly apply'd; we briefly may affirm *Contagion* (in Reference to our Subject) to be *a preternatural affect communicative in the nature thereof to every individual under the same kinde.* How destructive the Effects *hereof* are to the *Civil* welfare, we clearly may collect from the sudden and deplorable Depopulation of many Cities, Provinces, and Nations, who either have hereby become a prey unto their Enemies: or in the Revolution of many years not perfectly restored to their former Lustre. Of this Nature of Infirmity there are two kindes, *Native* and *Adventitious*.

Adventitious is that, which is communicated by Society or Vicinity of Person, or Subject Infected: It sometime also happeneth more remotely in Affinities of Blood, by secret sympathizing of their Constitutions.

Native is that, which is originally attracted in our Generation immediately from the Infirmity of our Parents.

Adventitious meets prevention in the *Civil* Faculty either by Restraint of *Commerce* and *Community*; or by a publick Institution of Artificial Remedies.

Restraint of Commerce, with all infected Places (how remotely distant soever) is evidently necessary to the Preservation of the *Civil* Frame from this Calamity: insomuch, as there are few Materials vendible, in which the Infection may not possibly be transferred to another Nation, after a long cessation of the Effects.

That *Restraint of Community* should be necessary to the Interception of this common Misery, appeareth evidently in the Con-

Contents of Gods ſacred Ordinance, *Which doth enjoyn the ſequeſtration of the clean from the unclean.* As alſo in the miſerable Conſequences, where *through a preſumptuous Opinion of Fatal Neceſſity*, ſuch order is neglected.

The Nature of this Reſtraint extends to two Diſtinctions, either *Excluſive*, or *Incluſive*.

Excluſive Reſtraint hath for Object only ſuch Perſons as reſort from all infected places, who uſually are ſecluded forty dayes from a *Society* in common Receptacles for ſalutary proof.

Inincluſive Reſtraint, concerneth only the Inhabitants of a place intrinſically infected, when the Contagion hath attain'd that height, extrinſical Removals are Impoſſible, or improfitable. The *Civil* Juriſdiction then confining the infected, (with the Domeſticks) to the preſcribed Limits of the Family, under exterior Guards, who Miniſter at diſtance to their Neceſſities, till the deſigned tearm of their confirmed Purging be expired.

Artificial Remedies within capacity of the *Civil* Miniſtry, are either, *Preſervative*, *Curative*, or *Purgative*.

Preſervative are ſuch, as honoured *Hipocrates*, *Who foreſeeing the Infectious Vapors incroaching on the Confines of his Native Soil, adviſ'd the* Civil *Miniſtry to cauſe the Etolian Forreſts to be ſet on Fire*; whereby the Air being purified, the fury of the Peſtilence was from them diverted. Under this Diſtinction may alſo be compriſed medicinal *Fumes*, *Odors*, *Antidotes*, enjoyned by the *Civil* Miniſtry, according to the Phyſical Preſcription.

Curative Remedies are ſuch Medicines, as by the general Conſultation of the Natural Miniſtry are compoſed to the publick uſe, and by a Civil Injunction formed at the publick Charge, to be reſerv'd in publick Diſpenſitories, and from thence iſſued, as need requireth for the common Benefit.

Purgative Remedies have a more peculiar Reference to the Circumſpection of the *Civil* Miniſtry, although the Advice of the natural not totally therein is to be excluded, which tendeth only to the purging of the Habitations, Utenſils, Veſtures of Infected Perſons, either by *Aire*, *Fire*, *Water*, *Fumes*, polliſhing or demolliſhing; inſomuch, as the Infection undiſtinguiſht may remain conceal'd, not only paſt the tearm of *Civil* Circumſcription; but after the elapſe of many years ſometime break forth into a new eruption to the publick prejudice.

Many Indiſpoſitions or Aptitudes to ſeveral *Maladies* may be transfer'd by the *Infirmities of Parents in our Generation*, which properly fall not under the Diſtinction of *Contagion*, ſince they may follow poſſibly the imbecility of thoſe parts to which they are coincident, as the Gout, Stone, Priſick, Small Pox, *&c.* Whereof to agitate, we will not here inſiſt, the Nature thereof being a Subject more peculiarly inherent to the improve-

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ment of the natural union; of which we ſhall perſue to treat in our enſuing order: yet are there other Diſeaſes contracted in our Generation, may pertinently fall under this Diſtinction, as *Lues Venerea*, *Morbus Elephantiaſis*. The *veneran* Pox and *Leproſie*. To the prevention of the *latter*, we may remit our *Civil* Miniſtry to the Direction of the ſacred Ordinance. But to avoid the *Former*, the ſureſt Rule will be the extirpation thereof by a penal Preſcript.

Senſual Exceſs, as prejudicial to the Natural welfare of the *Civil* Frame, may be reduc't to theſe Diſtinctions, *Gluttony*, *Drunkenneſs*, *Luxury*: Yet in Reſpect there are many Degrees of exceſs, may poſſibly impair the natural Faculty, that reach not to the note of their Dimenſions. It would be requiſite to our common Preſervation to lend to this extravagance a more viſible preſcription; which meeting ſeveral Meaſures according to the Age, Conſtitution, manner of Life and Climate, will yet in the perſuit thereof enforce us to contract them to one general Notion to regulate the reſt, *Cum gravata vel oppreſſa ſit Natura*. *When Nature is burdened or oppreſt*. In Reference to which Rule, although the Nature of *Gluttony* may eaſily be diſcovered: yet ſince many regular Miniſtries to Nature may accidentally agree in the Diſtinction of this Rule, which properly cannot be qualified with Affinity to ſuch Attribute: We therefore muſt thereto inſert a ſenſual Motive, not ſuch as often is produc't by ſome preternatural Affection, as *Caninus Appetitus*. *Pica* or the like; but ſuch as ſoly follow the inordinate Motion of the will; not only in the ſuperfluous Miniſtry to Nature; but in the untimely ſolicitation of her Faculty; the Effects whereof become deſtructive to her Order, either in the inſenſible debillitating or viſible Extinction of the innate heat, according to the irregular Meaſure of the Miniſtry, and vigour of the Natural Faculty.

Drunkenneſs may alſo in the ſame Diſtinctions agree with the prefigured Diſorder, only in Reſpect of the Object, they meet ſome Difference in their Operations. that may be ſaid to ſmother or to choak the natural Heat, with the ſuperfluous burden of her Aliment: *This*, with the Adventitious Heat, (inherent to her Object) to educe and attract the innate Heat out of her radical Poſition, *That* frequently but by Degrees; *This* ſuddenly and totally diſableth from a due capacity of *Civil* Practice: And though the Effect may ſometime meet an Intermiſſion; yet ſince the Re-acceſſes hereof are uncertain, ſuch temporary Incapacity may properly, in Reference unto *Civil* Rights, be admitted to a general Inſufficiency.

Luxury alſo in the preſcription to her Nature, may hold an equal Parallel with the *Reſt*; yet in reſpect of differing Objects

whereby they are educed into Act. This inordinance by different wayes reacheth the deſtruction likewiſe of the Natural Frame. In the frequent Effuſion and Elation of the Spirits, which are the perfecteſt Productions of the innate Heat, whereby the ſoul can only exerciſe her Faculties: nor yet can theſe extreams be limited within the Title ſoly of a Natural Treſpaſs (in which perhaps each one (in right of his own Intereſt) might challenge to himſelf a right of Diſpenſation: ſince ſuch profuſeneſs tendeth not only to the diſabling or Deſtruction of the Practiſers, but to the uſeleſs diſſipation of the common ſtore; as alſo the diſabling of their Iſſue to the publick uſe, not only in the natural Defects of the Body, but in the vicious Inclinations of the minde, infuſed in their Generation: and in ſuch powerful Examples habitually fomented and confirmed in their Education.

In which Reſpect our *Civil* Miniſter ſhould lend more ſtrict and vigilant Circumſpection to the ſuppreſſion of ſuch unnatural Inordinacies, inſtituting thereto a moral ſuperviſor (in nature of the *Roman* Cenſor) endued with capacity to impoſe juſt Penalties on ſuch Diſorders, either by publick Infamy, Civil Incapacity, Fine, or Perſonal Infliction, equivolent to the Degree and Frequency of the *Extravagance*.

XXX. *Of Indigence.*

NO Moral Argument can more evidently confirm the fall of Man from the firſt Purity of his Nature, then *This* his acquired Miſery; it being a Reproach to our Creator to figure an Inſufficiency in his hand-maids Miniſtry: And although Nature (ſuffering under the ſentence of Mans Original Tranſgreſſion) may ſeem declined from the Perfection of her primitive Inſtitution, in the Retraction of his Grace, had formerly lent more Influence unto the ſupport of her Order; yet did ſuch Affluence tend rather to the enlargement of his Felicity, then the neceſſity of his exiſtence, whoſe being had rather then for Object his Speculation then his Action; but having in the unhappy exchange of his Function, forfeited the Excellency of his Condition, the meaſure of *Her* Fertility became proportion'd only to *That* uſe, not to the Miniſtry of his Licentiouſneſs; which wild Revolt from her Preſcription, in appearance, might detract from *Her* Benignity, but not exhauſt *her* Treaſury, whoſe ſources, when reſtrained, are unſluc't, either in ſubmiſſion to the Penalty of the Treſpaſs, *To live by the ſweat of his Brows*: whence was concluded, *the Induſtrious ſhould be filled with Plenty*: or in the tender of *His* Gratitude, in a helpful Diſpenſation, whence

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is asserted, *The means of Preservation in the Day of his Necessity.* And although the *Latter* conclusion may seem to extend beyond the Limits of a *Civil* Position, to which we in Propriety to our Subject only should adhere: yet since the Exposition of the Institutor hath also *It* reduced to a *Civil* Notion, *under the figure of a Prudent Steward.* We shall form no impertinent Digression to incline to the explicit sence thereof in Regulating our *Civil* Opposition to this Calamity, in respect a mutual and coadjutive Ministry immediately is necessary to the due support of the *Civil* Faculty.

From the general Result of our Argument, may visibly be collected three distinct *Principles* necessary in Practice against the Approaches of this Misery, *Industry*, *Providence*, *Charity*; which persue also three distinct Objects to attain the perfect use to which they were directed. *Industry* acquireth, *Providence* reserveth, *Charity* dispenceth: On which three columns, we will erect the Fabrick of our *Civil* Magazine. To appropriate which exactly to the use, we will reflect on the extent thereof, which may be limited in this Distinction, *Publick*, or *Private.*

The *Publick* use hath for Object common necessity; the Nature whereof, although perhaps extended to many particulars, in Reference to our livelihood; yet pertinently may be reduc't unto the Intimation of one common subject, under the Distinction of *Grain*; which soly being sufficient to the support of our natural *Life*, all other Aliments seem therein properly included. *This* common Calamity (in the Defect *thereof*) most frequently is induced by the stubborn persuit of our Original Corruption, *Which causeth the Earth to be as Iron, and the Heavens as Brass.* Such was *Samaria's misery under* Elisha's *Prophetick Ministry*, *such Egypts, under* Joseph's *Delivery.* And though the efficient cause of this Disaster may seem to be of a far higher Nature, then yet a *Civil* Faculty could e're pretend to reach at the Removal in a timely Remedy: yet since Divine Providence hath so far favour'd humane Prudence, as to avoid the fury of the Issue, we plausibly may follow the example of such Practises, which though often grounded on a supernatural Prevoyance, yet have they in their *Civil* Order left an useful Prescription. The Method of *Josephs* Ministry under *Pharaoh's* Trust, was to erect vast *Granaries* in every part, successively accumulated from the superfluous Affluence of the common Plenty. In prosecution of the order of this Rule may probably be objected, that he had happier Aids to lend success to his Intention, then humane Wisdom alwayes is assured of, a *remote Prevoyance*, and a *Successive Plenty.*

In Reference to the *First* capacity may be reply'd, we want

no pre-advertiſement to *That* which alwayes may, and frequently doth happen, in one Degree or other.

In Relation to the *latter* may be inferr'd, the Faculty of Nature doth rarely want ſuch ſupream meaſure of Celeſtial Influence to educe a fertility; where Induſtry hath in her form'd a perfect Diſpoſition by a proper Culture.

To the uſeful *Diſpenſation* of the common ſtore, we only will inſert this Caution, That It be *Seaſonable*, *Orderly*, *Proportionable*; not *Chargeable*, or *Burdenſome*, the perfect'ſt Attributes of a Benefit.

Seaſonable, Before the exigent hath impaired the Faculty of Nature, either in defect of Aliment, or in impulſive Refuge to improper ſuſtenance.

Orderly, Commencing the ſupply either in Reference to place or *Perſon*, where there is greateſt urgency.

Proportionable, This Qualification of our *Subject* hath in the propriety of uſe a reciprocal Object. The true Dimenſion of the Diſtribution iſſuing from an equal collation of the common Faculty to the common Neceſſity, be It diſtinguiſhed either in Reference to the number or Diſability of the Family.

Not *Chargeable* or *Burdenſom*, elſe were exchang'd, but not remov'd the Miſery, reverſing totally the Nature of the Inſtitution, which had for Object ſoly mutual Relief of the Society, no *Civil* Commerce for abject Lucre to enlarge a Treaſury.

Many other remote Degrees of *this* publick Exigence may alſo be produc't by *Avarice* and *Diſorder*.

Avarice thereto conduceth either in an untimely Reſtraint of private Store, or in a ſecret and unſeaſonable Alienation thereof by exportive commerce, or in perverting the uſe of the Soyl; to avoid which Inconveniences, the *Civil* Miniſtry might conſtitute an Inhibition, that no private Oeconomy whatever ſhould, under Penalty, preſume to extend the total Hiue of their annual Store, beyond the Revolution of a double Crop: From whence deducted an equal Proportion to their private uſe for ſuch a ſeaſon; the Reſidue to be tendered at the publick Mart in ſuch equal proportions as might extend unto the Tearm ſo limited; and ſuch a Quantity as there remained unvended, the Subſtitute to the *Civil* Miniſtry might take off only at a ſubvalid Rate, wherewith the common Receipts ſhould inceſſantly be repleniſh'd for the Publick uſe: To which limited Preſcription of Time and Portion ſhould alſo be confin'd the Buyer as well as the Seller: And for a Regulation to their Commerce, whoſe Function might alone thereon depend, to limit their Proportions within capacity of their Returns.

Exportive Commerce of this Commodity (except on ſpecial Licence from the *Civil* Miniſtry) might totally be interdicted.

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The perversion of the Soyl hath almost every where found so general a Practice in persuit of Improvement by inclosure, that it may probably be apprehended, without a due and timely Restraint to such Liberty, the *Civil* Frame will suddenly fall under Prejudice of the Tolleration, either in an incompetent Proportion of our Tillage to the common use, Impoverishing the Labourer, or depopulating our Villages; which usage possibly might meet a proper Regulation, if Imposition might be laid on every Town to lay forth such a quantity of Arrable, as might sustain the Inhabitants thereof against all Casualty.

Disorder also frequently may prove an Introduction to common *Scarcity*; which following usually the insolence of Licentious Armies, the *Civil* Ministry only can remit the regulation thereof to the vigilance of the Military, if over it remain *there* to such Influence.

2. The *Private* use exacts for Object only a peculiar Indigence, which usually is induc't by these particulars, *Vacancy*, *Impotence*, *Casual* or *Unjust Dammage*. *Vacancy* may usefully be enlightned with this Distinction, *Voluntary*, or *Impulsive*.

Voluntary Vacancy meeting this misery, as a just Penalty, might seem but too indulgently treated by the *Civil Ministry*, to be but only visited for Relief, were not the publick welfare inherently therein concern'd, either in the loss of a useful and communicative Faculty, or in the sufferance of a useless and prejudicial Burden, to avoid the Dammage or Incumbrance of such superfluous Mixtures; The *Civil* Ministry can only safely imitate the Practice of the Physical; *Aut corrigendo, aut ejiciendo, Either in Correcting or Ejecting.*

The perfect'st method of Correction is that, most probably may reduce them to a just Devoir, which properly may be proved in the due Imposition of a penal Task, if which proceeding not attain the intention of the Institution, such incorrigible Incapacity may equitably deserve an infamous Ejection from our *Civil* Union in a prescribed Exile.

Impulsive Vacancy, encountring Indigence, merits a more debonair Redress, and nicer Circumspection from the *Civil* Ministry, to educe obstructed Inclination into useful Action; not only in Compassion to an undeserv'd Distress, but also in respect their suffering may be adjudg'd a dangerous symptome of the Failing Faculties of the *Civil Union*: The intercourse whereof can as seldom suffer Intermission or Cessation, as the Natural, without the hazzard of Destruction.

To form a Remedy to this suspension, it would be requisite, a publick mannage were inherent to the *Civil* Frame (as *Davids* Rural Oeconomies, or *Solomons* Naval Commerce) to which all the necessitous vacant might freely have recourse for their Imployment

ployment at a ſubvalid Rate, from whence they might have Licenſe to retire, when they could finde occaſion better to improve their Induſtry, which Inſtitution happily might meet other Important uſes to enlarge the welfare of the *Common Union*, not pertinent to appropriate to our preſent Subject.

Impotence of *Civil* Faculty in Members of the Body *Politick*, can only reach to theſe particulars, *Infants*, *Aged*, and the *Infirm*.

Infants abandon'd to the Caſualty of their Exiſtence, may juſtly from the *Civil* Miniſtry, claim the exacteſt tender of ſupport, in that they are indu'd with a potential Aptitude to make a Reparation of the Breaches, which the *Civil* Body daily ſuffers in the Infirmity of Nature, rendring the Conſtitution thereof in ſuch ſucceſſive Springs, an everlaſting Exiſtence; under what Limitation of time we ſhould denote this *Civil* Incapacity, can not more prpperly be expreſt, then in the *Naturaliſts* Definition of their order: Foraſmuch as after ſeven years tearm they are (according to the Practice of divers Commonwealths) capable of a *Civil* Introduction to attain their Livelihood. In the interim the equal and leſs Burdenſome Tuition of them, is the Parochial Exhibition, where each particular becomes to his ability an unſolicited Adjutor.

2. As the *Civil* Miniſtry ſhould reflect on the Indegence of *Infants*, in reſpect of what they may be; ſo on the neceſſity of the *Aged*, in reference to what they have been; which yielding a more viſible Proof, may direct us to a more proportionable Diſtinction in the inſtitution of their ſuccor, ſome have exhauſted their proper ſtore in the relief of others Miſeries. Others in the ſupport of publick Exigents: Some have ſpun out their years under the fruitleſs Travel of a Publick charge. Others ſinck under the rigid perſuit of their private Function. And although the *Civil* Miniſtry may ſeem in Honour more nighly engaged unto their ſupport, who are become declined in their Faculties, in Proſecution of the publick Intereſts. Yet in Humanity is *It* not acquited from the care of their Protection, who therein fail, under what accident ſoever; inſomuch as *Age* is a common and irrepairable Deficience, inherent to the frailty of our Nature, under what extent of time ſhould properly be diſtinguiſhed this *Civil* Incapacity, is poſitively not determinable, both in reſpect of the differing objects of a *Civil* Function, as alſo in regard of the various Temperature of the natural Conſtitution, native or adventitious, ſo that we only can conclude a man agedly deficient, according to the *Civil* Preſcription, when the natural Faculties (only through Age) are ſo declined from their proper vigour, they can no longer uſefully adminiſter to a *Civil* Practiſe; from whence ſhould properly be deducted a

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ſupport to this Infirmity, may be diſcovered in the Nature of the Subject of their ſterril Agitation, which falling under a Publick, or a Private Diſtinction, we may erect the Inſtitution of ſupply in due Conformity to the Relation of thoſe Intereſts. If the Publick more peculiarly have receiv'd Advantage by their Induſtry. The Dignity of the *Civil* Miniſtry is engaged, not to permit their Induſtry to paſs rewarded only in their precedent exiſtence, both in reſpect their poverty may be a mark of their Integrity, as alſo ſuch neglect may probably prove a Motive un to others, to proſecute the publick Intereſts leſs aſſiduouſly and faithfully: to which natural defect cannot be iſſued a more timely ſuccour, and with leſs charge unto the Commonwealth, then to admit a ſubſtitute to his Office, under ſatisfaction only in future, to ſucceed to the imployment: the benefit thereof to be tranſacted ſoly to the uſe of the declined Officer.

If their endeavours were directed only to the Advancement of a private Intereſt, thoſe Relations (whither Natural or *Civil*) ought mutually to contribute to their ſuccour: but ſince no ſuch voluntary conducement can be expected from the degenerate Inclination of Blood, or Ingratitude of man ſo generaly in Practice. The *Civil* Miniſtry ought not to ſuffer the infringement of ſuch rights to paſs without a Legal Penalty.

The *Civil* Incapacity implyed by *Infirmity*, may properly extend the ſence thereof to every preternatural Affect, whereby the Body is diſabled to the Miniſtry of a *Civil* Function, whether it be Native or Adventitious, Temporary, or Irrepairable: which deficience meeting with the Calamities co-incident to Indigence, in Reaſon may require a ſpeedier and more vigilant protection, then the reſt, The afflicted ſinking under a double miſery, propenſive to exalt the Evil of each others Nature. Whence hereto equitably ſhould be deriv'd a ſuccor, exacts a vaſt extent in the Diſtinction of the Accidents. If injurious, then is the *Civil* Miniſtry charged to exact an equal Reparation from the Treſpaſſer. If under an Aſſiduous Subjection, and incident to the Function, then is the intereſſed thereto ſoly engaged to the ſuccor: If Naturally or Caſually under a *Civil* Relation, the Aid therein hath Reference only to the tearm of ſuch Engagements. If under a voluntary ſuccour of another, the aſſiſtance is Reciprocal: If under none of theſe Diſtinctions fall the Accident, the Natural Relations are engaged next to the ſupport. If thoſe are not endued with a capacity thereto, their ſafeguard only reſteth in the publick Succour.

Who are reduced into Indigence by a *Caſual Dammage*, be it Fire, Inundation, Tempeſt, War, or the like publick Calamity, more equitably may repair, for their ſupport, unto the *Civil* Miniſtry: Inſomuch, as it only falls under the Capacity and

Devoyr thereof to avoid ſuch Accidents by a timely Circumſpection. Nor can a more equal Redreſs thereto be inſtituted (ſince every one may therein be concern'd) then by a General Collection.

The *unjuſtly Dammaged* to this extremity may ſeem to afford a Subject more properly inherent to the Deciſion of *Civil* Rights, then charitable Aids. Yet inſomuch as ſome have not Capacity timely to proſecute Legal Rights to the Advantage of their Future Intereſts; either by reaſon of the Immaturity of their Years, Defect of Natural Light; or ſtrict ſubordinance to nigh Relations, eſpecially therein concern'd. The *Civil* Miniſtry might impoſe the Circumſpection and Tuition of their Intereſts upon the next Relation of Capacity to agitate therein, under the penalty of their ſupport, whoſe Right had failed in their Negligence. This may appear, at firſt Inſpection, but an inconſiderable Caution, to preſerve the Members of a *Civil* Union from this Calamity: Yet when we ſhall more ſeriouſly reflect on the numerous failing of Succeſſions, Breaches of Truſt, and voluntary Reverſions of Contracts of Marriage (the chiefeſt Principles to the ſupport of Families) through the irregular Expence of careleſs Parentage, we rationally may conclude that *this* Particular requires more Circumſpection from the *Civil* Miniſtry (in reſpect of the Multitudes therein concern'd) then all the reſt we have inſiſted on. Nor can a more proper ſubſtitute be thereto inſtituted, then who may probably be intereſſed in the Conſequence: provided that the *Civil* Miniſtry be readily aſſiſtant to their Remonſtrances.

XXXI. *The ſeveral Objects of the Law in Reference to the Improvement of the Natural Union.*

HAving diſcuſſed on the ſeveral Objects of the *Civil* Miniſtry, in reference to the *ſecurity* of the *Natural Union*: In perſuit of our Order, we next proceed to treat on the *Improvement* of the *Natural Union*, which, in Relation to the *Civil* uſe, extended unto ſeveral Objects, may properly fall under the Diſtinction of theſe Principles, *Generation* and *Education*, whereon we will diſtinctly agitate.

XXXII. *Of Generation.*

WHither it be, that man bruitiſhly follows the ſenſual motive of his Nature in Adulation only of the ſenſe; or that the uncertainty of the Effect enduceth in the Agent

Agent a neglect of the Act: Of all the Appendices to our exiſtence, no one is ſo remiſly proſecuted (in Reference to the uſe) as is the Introduction to our Being: which being the Radix, Ground, and Foundation of all Natural Perfection, in Reaſon ſhould exact the niceſt Circumſpection: And although the Productions of Nature have higher and more ſecret Guides to form their operations, then humane Wiſdom can pretend to alter; yet ſince the matter, whereon thoſe hidden influences do operate, falls under Regulation frequently of humane Faculty, by a judicious and preadviſed Preparation, the Matter being rendred more perfectly ſuſceptable of their ſupream Impreſſions; the Form thereof will conſequently become educed into more perfect Action. This is made evident in ſundry vegetives by daily Practice of our terrein Culture. And more (to our Reproach) in our Aſſiduous Conjunction of thoſe Animals, whoſe kindes have a peculiar Reference to our abject Lucres, or Licentious Pleaſures. Perhaps a curious Artiſt alſo might hereto inſert the ſpeculative Prevoyance of the order of the Celeſtial Lights, adminiſter thoſe predominant Influxes; to the Advancement of our purpoſes in an exact Election: But ſince the Practice probably may ſeem repugnant to the uſe and inſtitution of thoſe Superiour Miniſters, attempting to direct their vertues, who do ours preſide. We only will adhere to our prepoſited Induction, which to the eſtabliſhment of our Poſition, will direct us to the Reſtraint of theſe Particulars from ſo material an Operation. The *Immature of Years, The Drunk, The Licentious Luxur, The Infirm. The Immature in Years,* In Reſpect that Nature being then buſied about the accompliſhing of her Structure, imployes her vigour ſoly on the exact forming of the Parts thereof, e're ſhe proceed to propagate her kinde for Reſtauration of her Order; from which diverted in the Anticipation of her Miniſtry, ſhe leaves her edifice unperfected, and in the Inaptitude of Materials thence deducted, educeth but a Frail and defective Conſtitution in another. What Diſtinction of Time ſhould regulate this Preſcription, may authentickly be collected from the Naturaliſts Agreement of the Confirmation of her work. *Ætate Conſiſtente. In the Conſiſtence of our Age*; which *Ariſtotle* Entitles, *Ætas procreandi Divina*: Yet ſince the Inſtitution of *Generation* confined to thoſe years, may ſeem directed rather to the Perfection of the work, then thereof ſimply to avoid but the deficiency. We may proportion the Extent thereof more properly according to the Model of the *Civil* Order, which much ſhould erre in the propriety of her Function, to admit a Member to the priviledge of being Maſter to a Family, e're it allow him a Capacity to the Fruition of his Property. Whither it were neceſſary to the uſe, to include each Sex in the

the Poſition of this Rule, may probably be diſputable: Yet ſince it is a work of Nature, we therein plauſibly may be directed by the enlightners of her Myſteries, who generally affirming the nobler and more ſolid parts of our Compoſure to receive the chief part of their principles from the Maſculine, we properly may incline to the excluſion of the Feminine from ſuch Regulation.

The Drunk. In the Intimation of this Exception, we only do imply the preſent State of *this* Diſorder: not but perhaps Cuſtom may therein probably attain to ſuch a Habit, as might be requiſite to admit of an Intermiſſive, or a General Excluſion. In Reference to our Poſition the Carthaginians form'd this Caution, *Not to exceed in Wine that night deſign'd for Procreation.* In Reſpect the exceſs hereof not only perturbs the Spirits, chiefly officiate to the Operation. But nature alſo (ſurcharged with a ſuperfluous Burden) contracting all her vigour to regulate the Diſorder, becomes not only then diverted, but enfeebled to the exact Execution of her higheſt Miniſtry. Nor is it probable but that the *Genial* ſubſtance ſuffers in the Diſtemper ſuch an Alteration and Intemperature as may deprive it of that Aptitude, ſhould render *It* ſuſceptable of a perfect Form. But how the *Civil* Miniſtry ſhould equitably exerciſe a Faculty of Temporary Diviſion, where It hath conſtituted a continual Union, is ſcarce diſtinguiſhable, unleſs it be by Impoſing Penalty on the *Civil* Treſpaſs, Infamy on the Natural; wherein the Modeſty of womanhood impeeched, might poſſibly crown the Intention of the Inſtitution with ſucceſs.

3. To interdict *Licentious Luxury*: from the legitimate Priviledge of Natures needful Miniſtry, may ſeem a Procedure repugnant to the *Civil* Inſtitution of her uſeful Remedy; Yet in Reſpect ſuch wilde deſires rarely do ſubmit unto a decent or regular Preſcription: As alſo that the conſequence attends on the Pretence may probably ſubvert the natural end of ſuch a *Civil* Priviledge, either in debilitating the Natural Faculty by too much effuſion of the Spirits, in an untimely frequency of the Act, or impairing the Natural Faculty by contracted Infection from the Diverſity of Objects, we properly may admit of ſuch an Inhibition (not only as a Natural Caution, but as a *Civil* Penalty) ſince Nature in us covets to perpetuate our Exiſtence in the ſucceſſive Propagation of our kinde, nor is totally improbable, but that the *Civil* Inſtitution of divorce aſſumed an Eſtabliſhment from the Reflection of our equal Purpoſes.

4. That it ſhould be requiſite to an exact Production, to ſuſpend or exclude *the Infirm* in Natures Faculty from officiating to her Miniſtry, is ſo evident a Poſition, as will rarely meet a Con-

Contradiction, in regard, Nature then ſoly is intentive to repair the Breaches of her proper Continent, not to form her Similitude in another, to which if then impulſively directed, ſhe forced is to aſſume her principles from an imperfect Abſtract, whereby thoſe deprav'd Diſpoſitions and Intemperatures become transferred on her purpoſed Pattern.

What kindes of *Infirmity* (under the Capacity of *Civil* Union) or what degrees thereof ſhould properly fall under Inhibition. Nature her ſelf may prove the beſt Informer, whoſe Motives ſeldom are irregular, if not ſuborned by licentious Habits; Although perhaps ſometimes left ſoly to her proper Conduct, ſhe therein may officiate to her own Infirmity; yet are the Effects thereof perceptably preceeded or accompanied by other Symptomes preternatural, which falling under the Capacity of other Cure, may equitably be diſpenced to aſſume that Courſe, might probably produce an equal Inconvenience in Anothers Being: But how the *Civil* Miniſtry ſhould be poſſeſſed with a Faculty to regulate this Inordinance, where the Defects reach not a viſible Incapacity, not clearly is diſtinguiſhable, unleſs it be in the ſuppreſſion of Licentiouſneſs and Lux, that frequently foment the untimely and Indecent Motions of the Senſe, which ſo become ſubordinate to Reaſons Miniſtry, ſhall ſeldom want other Inducement to regulate the will, then our own preſent Safety, and our own Iſſues future welfare, endangered in a ſenſual and untimely Liberty.

Having attain'd the *Natural* Object proper to the Improvement of our Being, exactly forming the Conſtitution of the Body in a regular *Generation*, it might perhaps yet appear neceſſary to the due Proſecution of our Order here to perſue the Improvement of the *Animal*, in Reference to our preſent *Subject*. But ſince the Soul educed only is to perfect Action, by the juſt Figure, Contiguity, and Temperature of her Organs, in poſiting the exact Compoſure of the *Natural* Fabrick, we have implicitly concluded of the potential Perfection of the *Animal* Faculties.

XXXIII. *Of Education.*

NAture having never ſo exactly caſt her Model, yet in our firſt *Education* leaves the ſupple Matter Subject to the Alteration of every ſlight Impreſſion: ſo that the Circumſpection of our Elevement is of far higher Conſequence then the Regulation of our Primitive Materials: Inſomuch as in our *Generation* we receive but a potential Aptitude, in our Education an actual Habit: And though the *Natural* Inclinations rarely

are effaceable, yet are the most irregular sometimes improvable, if undertaken in the Infancy by a vigilant skill: As also the most consonant Impairable committed to an Imprudent Neglect; a visible proof hereof, *Licurgus the Lacedemonian Legislator published to the people in the dissenting Inclinations of two Hounds extracted from one Litter.* The same Analogy in efficace, as our Culture holdeth with the Soyl, the same our *Education*, with our *Generation.* The dispositions of Nature, though ne're so fertile, being but extravagant Propensities, if not directed to a useful Ministry; nay, usually the most pregnant Faculties exact the most advised Regulations, as well in the Animal, as the Natural Operation: which Circumspection must be seasonable, while yet the plyant matter is susceptable of any form, and the facile Spirit not servilly possest with an insulting Custom. As the Receptions are then most easie, so the Impressions are then most Lasting. *Quo semel est imbuta recens servabit odorem Testa diu.* The Vessel retaineth longest the odor of the first seasoning. Neither requires this only an Oeconomical, but a *Civil* vigilance. So much was implicitly expresst in the *Spartans* Reply, *When their Adversaries demanded thirty of their Children for Hostages, refusing to yield up their youth, they proferr'd to engage a double Number in virility.*

Under what general Principles our present *Subject* should be distinguished, or how persu'd, we farther will examine; such Notions first prepositied, may form our rude and passive Nature, perfectly susceptable of so exact an Institution. In Reference to which order, our frail Composure being constituted of differing Materials, the *Civil* Ministry must in the Regulation thereof vise at distinct Objects to educe the individual into useful *Action, Chearful Vigilance,* and *Infatigable Travel*, in Relation to the Body. *Moral Civility*, and *National Affection* in Reference to the minde.

Vigilance, In regard such Habit endueth us with Capacity to anticipate all Occasions, may conduce unto our Purposes, extends the tearm of Life lost in a sluggish Stupidity, and lendeth more Facility to the Prosecution of an enterprise: Nor is this season of purility only material to this Regulation, as most susceptable to the Induction of any Form; but as most incident and propensive to yield the Indulgences of sloth, most frequently then accompanying the o're humid Temperature of the Brain. Which exercise we have qualified with *Chearfulness*, lest the severity of such a Caution should become to yet unactive Spirits a disagreeing Burden, so render them less useful, fetter'd with such Anxiety: On which Consideration, was perhaps grounded the Prudence of those Parents, who have been so exactly regular in Education of their Children, to have their Spirits,

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(with the new born day) ſummoned ſoftly from their flattering ſlumbers by the inticing notes of Harmony.

2. *Travel*, Inſomuch as by aſſiduous Exerciſe, the Body by degrees becomes both ſtrengthned and inured to encounter Actively or Paſſively, all Oppoſitions peculiar to our Functions, or accidental to our Fortunes. The conſtitution of our Body becomes hereby improved, and our Health ſecur'd, The Spirits hereby alſo will become more pure and vigorous to the Exerciſe of the minde, To which Practice we have annexed this *Coherent*, that our labours be not ſo remiſly proſecuted, as they might ſuddenly become rebutable, but that they might inceſſantly extend unto the time prefixed to the uſe, without Incumbrance to the undertaker, either by entertaining the minde with variety of Objects, or with the Recompence and Glory of the Iſſue.

3. *Moral Civility*, This Qualification extends It ſelf to many excellent uſes, perhaps beyond the full Preſcription of our preſent Obſervation, or the juſt Capacity of our *Treatiſe*. Firſt it layes an exact Foundation for *Civil* Rule to erect her Fabrick on, forming the minde to a gentle and ſubmiſſive *Obedience*; whereon was conſtituted the *Spartan* Glory. It lendeth a ready Capacity to every knowledge, in a plauſible Docility. It diſpoſeth the minde to a timely and officious ſuccour, in a reſenting Humanity. It appeaſes the fury of an Adverſary, and wins our Inclination e're we conſult our will. It is the very band of common Union, and the eſtabliſher of Peace. Reproof inveſted with this Ornament, is an effectual Balm, and the moſt ſtrict ſubjection ſtill agreeable: Nor yet becomes the Influence of this *Vertue* limited within the Notions of her proper Nature, but poliſheth the minde to the more apt Reception of holy Myſteries. Our Savage Nature (of neceſſity) muſt firſt aſſume a meaner ſpeculation, e're it can be endued with Capacity to aſcend unto ſo high a Lumination. Humility and Concord are the moſt proper Figures of a *Civil* Converſation, and without queſtion the firſt and utmoſt ſtep to Divine Inſtitution. Nor can the ſullen rigid Forms of a tranſported Zeal, win a judicious Credit of interiour Piety, which ſtrive to ſmother theſe exterior Graces of Humanity.

4. *National Affection*, Of all the endowments, may, in our frail Conjecture, tend to the exact compoſure of a well form'd minde. No one, in humane Reaſon, can be ſo requiſite to the Eſtabliſhment of a *Civil* Felicity, as *This* entirely conſtituted in every part of a *Community*. All other Vertues may have ſecret Sources, and Improper Objects, not conſiſtent, perhaps, with their true Eſſences, but in form, adhering only to peculiar Intereſts. This only is the proper teſt to all their Attributes, moſt

moſt Hiſtories being pregnant in Authentick Proofs, That Vertues faireſt Ornaments have frequently, not only attempted, but therein ſucceeded, may materially conduced to the ſubverſion of the *Civil* Frame. The firſt and moſt viſible ſtep to all the antick *Roman Glory*, and enſuing *Greatneſs* was formed from the ſecret influence of this their innate Luſtre, and in decline thereof *Both* terminated. Invincible being that ſtrength, where all the Members of a *Civil* Frame, are animated only by one *Object*.

Our rugged Nature thus poliſhed and prepared to the Reception of a more excellent Capacity. We will proceed to the Remonſtrance of thoſe Objects, we purpoſe to direct them to, as moſt material to the *Civil Union*, which properly may be compriſed in theſe enſuing Principles, *Letters*, *Arms*, *Agriculture*, and *Manufacture*: Theſe being the only Columns that ſupport a *Civil Fabrick*, though ſeveral uſeful Branches hence deriv'd, may poſſibly, at firſt Inſpection, ſeem to participate a more diſtinct Nature in their Conſequence.

1. *Letters* have in their Nature a very vaſt extent, poſſibly not coherent, nay probably not conſiſtant with the Felicity of a *Civil Society*, ſince we may evidently collect this general obſervation from Records of Antiquity. That the moſt flouriſhing Empires have viſibly declined from their Vertue, and Valour, as they have made higher progreſſions in the ſearch of humane Sciences. Nor hath the ſecret effects hereof been leſs remarkable to the barbarous and illiterate Incroachers on the Chriſtian Continent, who have forbore to ruine many publick Libraries, only on this deſign, That they might be left as uſeleſs Triſles to amuſe their ſubdu'd Adverſaries, and reſtrain them from any generous Attempt, might reinveſt them in their former Liberty and Glory. The truth is, Letters in their abord, have an alluring Faculty, doth eaſily induce the minde, not only to a neglect, but to a general miſpriſion of *Civil* Practiſes, and the ſedentique Poſture is of neceſſity impoſed on us in perſuit of their Myſtery, unerves the Body, and effeminates the minde.

* The Goths in *Greece*.

To avoid therefore this Error in *Their* Nature, and this Inconvenient in the manner of *Their* Acquiſition, we will confine *Them* only to *Their* proper uſe, and preſcribe to their exerciſe ſuch Objects only, as are material to the *Civil* welfare. All Arts and Sciences whatever, being but *ridiculous* Poſitions, which in their Speculation and Practiſe, may not become reduced to a *Civil* Benefit. The firſt and moſt perfect uſe of *Learning* in General, being, without Queſtion, but to form our Judgments the better to direct our will, although our publick Seminaries ſeem, both in their Allowance and Practiſe, to viſe at nothing more then the enfarcing of their Memories, eſteeming

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ing thoſe Compoſitions to contein the faireſt Ornaments of *Learning*, which have the moſt variety of Quotations, adhering more to the Authority of anothers Fame, then to the vigour of their proper Reaſon: ſo that in concluſion the whole Texture of the elaborate work tends but to ſhew a ſpecious Inventory of other mens Opinions, ſcarce ſhadowed with their own.

The Objects of *Learning* eſpecially conduce unto the *common* welfare, muſt of neceſſity either have Reference to the Regulation and Improvement of the Minde, Body, or Eſtate: To Illuminate, Rectifie, and Guide the Intellect, *Letters* preſents us thoſe two uſeful Pieces of *Hiſtory* and *Moral Philoſophy*. To repair the Breaches of our Infirm Nature, *Phyſick*, with the Dependences thereon. To ſecure our Eſtates, the *Laws* Civil and Common. To mannage and improve them, the Rules of *Oeconomy*, and *Mathematicks*, the Miniſter to Arts and Commerce. Preſcribing theſe Limits to the extent of *Letters*, we without Difficulty ſhall reduce *Them* to their proper Inſtitution. And annexing the *Practick* to the *Theory*, as alternate ſubſequents to each other, we alſo ſhall with like Facility avoid thoſe Indiſpoſitions inſenſibly do ſteal upon our Body in the aſſiduous Proſecution of *Their* knowledge, which might perhaps elſe render us leſs capable of *Civil* Action.

2. *Armes* in their Nature have a more viſible Influence to the Eſtabliſhment of a *Civil* Felicity, tending not only to the expulſion of invading Foes, and the ſecuring of extrinſick Commerce. But to the Interiour Reduction of every Member to the Conformity of the *Civil* Juriſdiction, Not inſerting the Propriety *thereof* to the enlargement of the *Civil* Frame, becauſe ſuch extent not properly is inherent (although ſometime coincident) to the *Civil* welfare: ſo that we may hereby perceive three diſtinct uſes in their Inſtitution, *For Defence*, *For Offence*, and *For Parado*: Though leſs civiliz'd Nations did firſt direct *Them* to a happier end, gaining therewith their livelihood. To form which more ſuſceptable of a fair ſucceſs (according to the Rules of humane Sence,) We will appropriate every diſtinct Subject thereof to the moſt apt managers. The *Cavalry* (according to the *Roman* manner) to the *Noble*. The *Infantry* to the moſt *Strenuous*, and the *Naval* Force to the moſt rugged *ſavage Tempers*.

3. *Agriculture* is the Primitive and more eſſential Column that ſupports the Fabrick of a *Civil* Union, inaſmuch as ſuch *Society* may poſſibly ſubſiſt happily without coherence on the preceding appendices. But *None* without *This*. Nature exacting the firſt and moſt powerful Miniſtry, the pretences of the joynt Concurrents being only but *Ornare* to embelliſh. *This* only

to ſupport. And although It may here be inſtanced, that many Nations have happily ſubſiſted only on the voluntary Productions of Nature. Without advantage of an elaborate *Culture*, e're Lux and Avarice had preſum'd to violate *her* Virgin Purity, by their adulterate Reſearches. Yet in Reſpect ſo happy an Exiſtence may (in Reaſon ſeem rather a Conſequent to the Improportionable extent of a ſcarce Habited Soyl, or the indulgent Remiſſneſs of a ſtupid *Society*, then the digeſted contentation of an elevated miſde. The active Temper of a rational Soul ſtill prompting her Faculties to the Illuſtration and Improvement of every Subject, falls under the capacity of her juſt Regulation. We may admit the uſe *Hereof* of higher conſequence, to the eſtabliſhment of a *Civil* Welfare: not only in the neceſſary Miniſtry to our frail Compoſure, but in the exact conſtituting a proper Seminary to frame a Body Millitary Aſſiduous Travel extending the Muſcles, ſtrengthning the Nerves, and animating the Spirits to the undaunted encounter of every Danger, Pain, and Difficulty, might properly or caſually enſue the Enterpriſe of ſo honourable a Condition: ſo that we may probably Conjecture, the ſeveral Eclipſes of the *Laconian* Empire (though otherwiſe exactly regular in Education of their youth) proceeded chiefly from their Exemption, Neglect, or Miſpriſion, of ſo requiſite a Function; the burden hereof being totally impoſed on their * Slaves. And though particular occurrents can form no Proof might reach the full Propriety of a general Concluſion: Yet when we ſhall reflect upon the efficacy of this Exerciſe, in forming and Reforming the moſt improper and depraved Conſtitution Nature could produce for ſuch Intention, to the exacteſt Model of a martial Inſtitution, in the laſt, and not leaſt, Eminent * Perſon, lent Luſtre to the *Grecian* Glory. We may (without ſtrict Forms of Argument) conceive how far the influence of our Subject may herein conduce to the eſtabliſhment of a General Notion, which may be farther verified in the *Turkiſh* Inſtitution of their *Janezaries*, the only Strength and Glory of their Armies. Nor ſhould, in Reaſon, the mannaging of ſo uſeful a Miniſtry be ſoly committed to the groſſeſt Capacities, as a ſubject inſuſceptable of a higher ſpeculation, ſince the moſt refined Judgments have endeavour'd to reduce *It* to a regular Preſcription.

Etolians.

Philopemon.

4. *Manifacture* is the Nurſe, Miniſter, and Proof to the premiſed Principles. Without this Graphical Dimenſion all Arts and Sciences are but ſpeculative Conjectures, unform'd Embryons, Doubtful Idea's, even to the moſt elaborate and perſpicuous Pretenders, nor in themſelves but empty Suppoſitions unapt for *Civil* uſage, until a manual operation ſhall produce a more aſſured and uſeful Concluſion in a viſible and effectual Demon-

monstration. Nor could be figured, in Reason, unto humane Sence, why such *Function* should with less Credit in a *Civil* Ministry, then the preceding Principles, had not the Practitioners, in slubbering and corrupting of their Operations, in pursuit of Lucre, so objectly fallen from the first rational and methodical Inspection of their Arts, as to reduce them only to a Mecanick Observation. Having prefigured the Impressions proper to a *Civil Introduction*, with the principle Objects necessarily inherent to the perfect Ministry *Thereof*. Order exacts that we should next insist upon the means, whereby the *Civil* Jurisdiction might form such Institution to the publick Benefit; in which we will first consider the *Age* and *Quality* of the persons receivable to the publick Tutelage distinctly with their proper Objects, and their peculiar Seminaries.

1. The *first Years* of Capacity to be admitted to a *Civil* Introduction, is according to the common usage of the most Industrious *Societies*, *Ætas Puerilis*, *The Age of Purility*, (which Naturalists define to commence about the seventh year of our *Age*) In respect that our Facile Nature is then most susceptable of a regular Impression. The Orgains then best fashioned to a ready Execution. The time well advanced to a perfect Acquisition, and the Habits so acquir'd, best formed to a stable Retention: In Reference to which Institution, the Custom of our Climate is herein much impeachable; suffering our youth, in a senseless or indulgent Rankleisness and Remisness, to be well advanced in their *Age*, ev'n to sixteen or eighteen years, e're they allow them fit to address themselves to *Civil* Action, judging the time preceding usefully imploy'd in pursuit only of a *Tongue*, scarce useful to their following purposes, which is materially thereto consequent: If methodically, seasonably, and industriously pursu'd, might in far greater a Perfection be attained in one Annual Revolution. And although such prescribed *years* may probably seem to reach a Capacity of Imitation in Exercise of other Objects, but not in the use of *Arms* till doubled in the number of Prescription: yet may their usual sports be so disposed in the vacancy of other undertakings, a strenuous and undaunted Aptitude may thereby become formed in their supple Nature, to render them in future more susceptible of that Excellence is requisite to so penible and perilous an Imployment.

As to the *Quality* of Persons in General, we cannot (with Reason) in Reference *Thereto*, admit any Member of our *Civil Union* to a Priviledge of Exception from publick Action; inasmuch as a mutual Community, is as necessary to the forming of a common Felicity in the *Civil Structure*, as in the *Natural*; no piece thereof falling from a reciprocal Ministry, without Obstruction or Corruption to the whole *Frame*.

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In particular, we may reduce the *Qualification* of every Subject of our *Civil Society*, in these Distinctions; *The Rich, The Mean, The Poor*. Under the *first Difference* we may infer Those, who are by the Advantage of their Birth, or otherwise visibly intitled to an opulent Succession, though the Capacity thereof reach but to a decent subsistence. Under the *Second*, who from their Parentage may expect some small Endowment to the Introduction of a *Civil* Profession, but not so large a proportion, might yield a visible Foundation to a necessary support, without concurrence of their future Industry. Under the *Latter* such as have no visible adherence to any Faculty might admit them to the Introduction of a *Civil* Function.

To the *first Qualification*, we will appropriate an Object of Industry, suitable to the Advantage of their Fortunes, which potentially forming in them an habitual Tranquility of Minde, and a voluntary Repose of Body, may lend them a more facile Access to *Spiritual* Endowments. Nor is It consonant to the Dignity of *Their* Nature to become many a prostitute to abject Lucre; from whence 'tis probable such *Sciences* have held their splendid Attribute, *Liberal*, rather in Respect of the Acquisitors freedom in communicating their Efficacy to the Benefit of others, then from enfranchising an abject Spirit in a generous Elevation, or a servile Fortune in an honourable Illustration. Such unintereſſed Practises in publick Persuit of the Laws for the Decision of Private Rights formed the Antick *Romans*, worthy and susceptable of their ensuing Regency and Glory. Such Enlargement of Grace in their Physical Dispensations, qualified the *Arabian* Princes with more Dignity then their Diadems. Such zealous Ministry in publick Enlightning Sacred Mysteries invested *Furies*, *Rabbies* with more reverence then e're the awful power of Rule could reach unto. *Letters* have lost their Purity and Esteem, since but persu'd for Mercinary ends: but yet confine we not any person under *This* Distinction, to the exercise only of these Objects. *Letters* may probably so enlighten the understanding, and confirm the Resolution, that after a competent Time of voluntary Subjection in the use of Arms, *These* only may become exact Commanders in the Martial Frame.

2. To persons under the *Second* Condition, we have designed only the use of *Manufacture*. In respect (as is propounded) they are visibly adherent to such a Proportion of a *Civil* Faculty, as may lend them a Capacity both of the Initiation and Practice of their Functions, many occupations may seem requisite to the Composure of a *Civil Structure*, are not exactly specified under *This* general Distinction. But when we shall exclude all Debutors of Commodities from Publick Trade, but

but only such as fram'd them: or at least (if divers hands, differently qualified, were needful to their Supplement) who most usefully contributed to their last fashioning: As also forreign Trade shall be reduced only to Receipts of publick Commerce. We shall have sufficiently figured our intention under the Extent of this only *Attribute*. Other forms of Commerce tending but to the enhancing of Commodities to the Advantage only of Particulars, who, like idle Drones, suck all the Benefit thereof from others painful Industry, which only had conduced to their forming.

To Members of the *Last* Distinction (having attained the years of *Civil* Capacity, either under their Indegent Parents sterile or declining Industry; or under their native Parochial Tutelage) we properly may assign a double Ministry, forming their Limbs first ready to a strenuous Execution, by the assiduous Labour of a toyling *Culture*. Their Bodies also thereby hardy grown against the exterior Injury of the Seasons; and their Constitutions apt to suffer, without prejudice, such Aliments, as the urgency of time may possibly, in future Occurrents, sometime have recourse unto. Who thus become exactly endued with these Habits in pursuit only of *This* Object, we may, on the Maturity of their years, from thence (by *Civil* Ordinance) transplant them to our *Martial* Seminary which constituted only of *Licentiats*, such as become aged in their active service are withdrawn to an easier Duty, and instituted only for *Parade* or Ornament to the *Civil* Frame) they may with much delight, in so expert a Society, in one Annual Revolution attain to such Dexterity, Facility, and Grace in Exercise of Arms, as shall be requisite to the Success of future Action.

As to the constituting several *Seminaries* proper and peculiar to the attaining of these Objects, they only can establish't be by Order and Injunction of the *Civil* Ministry, lest the Remissness of Indulgent Parents should render such an Institution frivolous. To the Regulation of Persons under the first Quality, instituting well composed *Academies* in every County, to avoid the numerous Affluence of Associates, which, swelling to a Multitude, might in Disorder or Neglect, render them less capable of an exact Institution.

Particulars under the *Second* Intimation, pursuing in one General, Objects indefinite in their Nature, can no way be reduced to a limited Prescription; we will therefore leave them to the Liberty of a voluntary Election, in Respect of their Nature, provided it may be essentially material to a *Civil* use: and in the manner, according to the due proportion of such time, as may sufficiently form their Hands, and enlighten their understandings in the perfect Mystery of their Art.

Persons, under the *Latter* Inference, may in their first Introduction to a *Civil* Action, be committed to the Provision of our Justices of Assize, who in their usual Conventions may assign *Them* to the Tutelage and Instruction of such Masters, within their several Jurisdictions, as shall be noted of Capacity to entertain them in assiduous Action proper to our premised Object, *Agriculture*. Till therein reaching the due tearm of Maturity for Military use, they may be thence transplanted to our prementioned Society in *Armes* intended only but for Ornament to the *Civil Frame*; where passing their Probation, they become fit undertakers to persue more weighty Enterprises.

The several Objects of the Law, in Reference to the Improvement of the Internal, or Intellectual Faculties, are contained under two Principles, The Extralegal *Reward of* Vertue, *and the* Extralegal *Punishment of* Vice.

XXXIV. *The Extralegal Reward of Vertue.*

HAving exactly fitted the Members of our *Civil* Body to an apt Progression (by the Preservation and Improvement of their *Natural* Faculties) e're we display the Objects of their Course, It will be materially useful to a perfect success in our undertaking, to persue the Improvement of the Interior or Intellectual Faculties, by encouraging the Translactors with the Glory and advantage of Achiving, or deterring with the Reproach and Dammage of their failing in our Enterprise, so animating or restraining them, that a generous Emulation might prompt them with more Ardour to pursue the publick Benefit included in their own, And though our corrupt Nature may seem to need no other Motive to the plausible persuit of our Functions, then our own Passion for ensuing Gain: Yet the Relishes of youth (the aptest seasons to a perfect Institution) are not yet fitted to the Baits of Avarice; or if they were, the publick Test no small Induction is to the Enlargement of such Acquisition; whence probably is formed that Notion, *Honos alit Artes, Honor is the Nurse of Arts*: Why no *Civil* Law propounds a Benefit or Advantage unto any for the Intended or the Perpetrated Good; but the Infliction only for the Evil acted,

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is probably, in Respect, That Virtue in her self is held her own implicit Recompence, it being a Blemish to her Purity to have any Object forth her proper Sphere: which motion only figures her Distinction: Nevertheless, on these *Two* Pillars was the sacred Law erected, though but the *Latter* only therein expressed. A *Law* without this implicitly in it self, seeming but a servile Imposition; and having *This* explicitly in it self, a mercinary Exaction. To figure which Mystery, though the General Clauses of the Sacred Law were published, yet the particular Covenant, Ground, and Pledges of the Law were secretly, with the Law, unfolded in the Ark, which none but the chief Ministers to the Law approached, and every curious eye forbid therein to make Inspection. Of such Nature should the Investure be of Vertues Dignity, Indefinite and immaterial, that her Actions being free and without propounded Compact, might render the Purity of her sources to be suspected neither vain or Mercinary. Equivolent to this Rule was that prudent Generals Dispensation in his Ministry, who to dignifie the vertue of his Magnanimous Courage, to whom they were indebted for two Victories in one day (on his generous refusal of the spoil designed for his Recompense, as too mercinary an endowment for a Noble Temper) *presented him his Horse for Martial Service, with the Caparison of Eminence belonging to his State, and qualified him with the Title of that* * *Place, his valour had acquired to the publick Benefit and Honour.* And although such a procedure may possibly engender private Envy and Grudges to the forming of *Civil* Discord to the publick Prejudice: yet such Inevitable and Corrupt Productions spring but from the Rankor of abject and degenerate Spirits. Mindes elevated and refin'd, receive from thence (with *Cato*) a more noble Resentment, *Who failing in his Pretences to the publick Ministry, conferred by Election on his Competitor, was so far from a distaste thereat, that he wished that all his fellow Citizens were justly in that, and in all things else to be preferr'd before him.* It was this Glorious, Lost, Forgotten, and misprised Idea of the Soul, acquir'd to antick *Rome*, her Dignity and Extent. The publick welfare in general is but remisly pers u'd, nor the particular Members thereof but faintly supported. Where the Prescription of the Law extendeth our Devoyr only to the performance of our Contract, and not to impair anothers Property; And notwithstanding it agrees not with the Nature and Dignity of so illustrious an *Attribute*, to borrow an Original from any Retribution, or exterior Advantage whatsoever. Yet shall that Prince or Magistracy, which but neglects (nay nicely not encourageth such eminent Proceedings) never attain the Glory or Felicity of a flourishing *Society*.

* *Coriolanus.*

To avoid the Hazzard of which Consequence, we will proceed

ceed yet farther to distinguish the Nature of our *Subject*, with the several Objects: and the Capacity of the publick to improve the Effects thereof.

The General Objects *thereof* are either *Publick* or *Private*. The particular Objects in Reference to the *Publick*, may be inferr'd in these Distinctions, *Martial*, *Civil*, *Natural*, *Mecanick*, and *Munificent*: nor yet in Reference to Particulars, is any Object thereof rightly instanced, which may not be reduced under the extent of these Principles: as also sometime possibly in one Subject may they meet a Complication in their Nature.

In the Distinction of the *Martial*, we may imply such exploits in *Arms*, either *Offensive* or *Defensive*, as in a Lawful War peculiarly conduce unto the Publick Benefit and Honor, beyond the Simple Intimation of Devoir inherent to our charge. According to the Pattern of the *first* Difference, was *Coriolanus* Atchievement, *Who in the close pursuit of his Enemies, entred the City with them, and with the Aid only of a few that followed him, reduc't it to the Roman Government. And while yet freshly bathing with the Sweat of his Toyl, and the Blood of his Foes (having secured the City) returned to a doubtful Conflict without, betwixt his Party, and their Adversaries, both Ignorant of what had passed, where magnanimously fighting for his Countries Glory, both Victories were imputed only to his Valour.* A Parallel to the *Latter* Distinction, was that *Romans* * Adventure, *Who, with his Company, persued closely by his Enemies to the entrance of the City, cansed that part of the Bridge, was betwixt him and his Companions, to be cut off; That he alone making a head against the fury of his Enemies, might so afford them time to enter for their own Security, without a further hazzard to the City: which done, he (with his Arms in his hand) leaping into the Mote, surrounded it, swom to the Banks thereof, where his Associates Received him with Joy, and Admiration of his Vertue.*

* *Horatius Cocles.*

Nor truly can it be denied, but that as we have lent this Distinction the Precedency in order, so both in Right of Antiquity and use, It seems herein to challenge the Preheminence, not only as the Founder and Establisher of the *Civil* Order, whence flueth the Capacity of the *Rest*; but as the most penible, dangerous, and highest Adventure to the undertaker: which seriously considered, we may undoubtedly affirm, the real Source and Element of Dignity most properly is seated in *This* Exercise, as appeareth in the Nature and Signature of the Primitive Institution of Honour on *Escutions* Antick Pieces of *Armory*. And in the successive Additions *Thereof* in several Orders of Knighthood; although both the one and the other have been promiscuously conferr'd without a Reference to any such Distinction: yet hath It not been without Blemish and

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Detraction of the Grace Intended in the Institution, whence probably hath issued the Misprision and Inefficacy of the Ordinance, especially when the Corruption of succeeding Ages had prostituted her highest Attributes to a venal Acquisition, or other interessed Intercession. It were very requisite therefore (that every *Qualification* might reach the Intention of the Institution) to form such Illustrations of Honor proper and peculiar to the Nature and Distinction of the Fact. That the more noble Consequences might not be ballanced in esteem with the Less, nor the Less with the Greater, to the Envy or Misprision of the Institution. And farthermore, that such Investures of Dignity might have no other Tract of Acquisition, but the Free Grace, Acceptance, and Acknowledgement of the Institutor, in Reference only to the due Merit of the Acquisitor. Otherwise the use and Benefit thereof will soon be frustrated and void.

These Ornaments of *Civil* Distinction may probably appear a Vain, Ridiculous and but an empty Gratuity, unbecoming the Majesty and Magnificence of a Prince, or State; not accompanied with more essential Inherences: Yet rightly conferr'd, they are but Ceremonious Pledges of the ensuing Necessity to enlarge their *Civil* Faculty in future Employment to the publick Benefit: Notwithstanding *They* may possibly meet in such a Subject, whose Indigence might exact more timely and material Gratuity, else such intended Grace might prove to them both Burdensome and Reproachful: which Inconvenient might happily be supplied from the Common Treasury in some Annual Pension. Provided, that neither the Proportion nor Continuance thereof, had other Reference then the due support of that Dignity conferr'd, until some Accident might form an Opportunity to transact like Advantage on them in some useful Ministry most proper to so eminent a Capacity. Otherwise, if such Munificence were more General or unlimited, The Treasury would either thereby become so burdened, or exhausted by the continual Affluence of Pretenders, that either new Sources thereto must be derived from the Subjects by a general Levy of Impositions, to the publick Prejudice, or else the Majesty of a Prince or State become eclipst through Penury and Want.

Under the Intimation of *Civil* Offices to the *Publick* extending the simple *Latitude* prescribed to our Charge, may be comprised the Council or Advice, that with undaunted Integrity makes either Proposition or Opposition against the Purposes, Designs, or Practises of a Prince or Populace to the Advancement of a Common Good, or the Declining of a *Publick* Damage: though to the hazzard of Estate, Liberty, or Life.

Such was *Regulus* Advertisement to the *Senate*, *When they inclined to conclude a shameful Peace with their insulting Enemies in favour only of his Safety, become their enlarged Intercessor, on his Faith, failing thereof to return:* which resolute Perseverance in a Publick Convention, may sometime possibly pass under Censure of an incautious or corrupt Obstinacy, that with singularity in form tendeth but to foment intestine Faction. But the Grounds, Inherence, and Consequence of such Debates examined, will evidently disclose the Nature of the Intention: The *Former* usually proceedeth with more Modesty and Sufferance. The *Latter* with more insolence and Passion. *That* but endeavours to enform or to enlighten his Prerences to an equal Reception: *This* to impower them to a servile Imposition. In private Conventions such Procedure may seem but to decline that Interest for which peculiarly the Members thereof were united. Yet rightly understood, it may become a *Paradox* to affirm, that Prince or State can be endued with Capacity to receive any real Advantage involved in a *Publick* Prejudice, or disjoyn'd from a *Publick* Benefit; though such a Notion hath unhappily passed for a general Position. Whereby, Princes too frequently resent with high Indignity Repugnance to their will, corrupted by the Adulation of adulcerate Glosses: But a prudent inspection will from ensuing Consequents soon collect the Error of their Apprehension: And Honor that Integrity, adventureth rather to incur the hazzard of his Princes Favour, then wilfully to betray his Masters Interests. Such a resentment was plausibly express by one of our illustrious Princes, *Whose youthful Licentiousness (during his Fathers Reign) being gravely checked by a Civil Magistrate, proceeded to that heighth to strike him, for which, he being by the Magistrate committed, He after for such Procedure, was by him (succeeding to his Fathers Throne) most highly dignified, acknowledging he worthily had therein maintained the Dignity of his Laws.*

3. By Inference of a *Natural* Beneficence, we may imply such genuine Discoveries of Natures Mysteries, as may conduce unto the safety or Felicity of the *Civil* Union, which either the Avarice or Envy of others had concealed, or their own Industry or Experience hath disclosed. Of this Nature was *Hypocrates* overture to the *Publick*, *Who that they might escape the Ruin of a raging Pestilence surrounded all the Confines of their Territories, advis'd them timely set on Fire the interjacent Forests*; whereby the Air being purified, his Country was preserved from the danger of an encroaching Contagion. In promoting such Advantages to the Publick Benefit, Custom hath so corrupted the use of Industry, That it will become necessary to lend *This* and the succeeding Distinction, a more material Com-

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penſation, beſides the Grace inherent to a plauſible Reception, then probably may agree with the exact Definition of the Nature of our *Subject*. All Arts and Sciences receiving now no other vigour, then what from abject Lucre is inſpir'd.

4. In perſuit of our Order, enſueth the *Mecanick* Miniſtry to the Advancement or Preſervation of the *Publick* Intereſt; which notwithſtanding *It* may ſeem inferiour to the *Reſt*, as a more proper Subject to leſs elevated Capacities; yet in Reſpect *It* is immediately neceſſary to moſt uſes viſibly inherent to the due ſupport of the *Civil* Frame. We equally may hereto lend a conſiderable Reflection, not weighing the excellence of *her* Nature, either in the Curioſity, Rarity, or Delight of *Her* operation, but ſoly in the material Conſequence and uſe thereof, eſſentially conducing to the *Civil* Welfare. Of this Quality in the Military practice was *Archimedes* Engines for the Defence of *Syracuſa*, againſt the Fury of the *Romans*. Or what other, in *Civil* uſes, may be produced againſt the ſterility of the Soil, Natural, or Adventitious, or what otherwiſe tend to the Improvement of a National Commerce. But ſuch hath in our Age, been the unhappy Diſpenſations of Publick Grace, That thoſe Arts have received the moſt eſſential Indulgence and Encouragement, That moſt licentiouſly have conduced to Vanity and Lux, contrary to the Reſentment of that generous Prince, *Who prudently weighing the uſe of every ſingular Faculty, to him that with infallible Dexterity, could caſt a Grain of Millet through the Eye of a Needle, ordered for Reward a peck of ſeed, he might not want Materials to keep his Skill by frequent Exerciſe.* On this Deſign of Publick Benefit, are grounded the Pretence of moſt *Monopolies*; it ſeeming to a Prince moſt equitable, that every man ſhould ſoly reap the Benefit of his own Induſtry, or Invention for a time preſcribed, that the Fruition thereof may in future be returned to the publick uſe. But ſuch Motions might poſſibly meet a more plauſible entertainment and a happier Iſſue. If the pretender were enjoyned to attend the Teſt of their own Propoſition, in an approved Conſequence, and totally reſt diſjoyned from all peculiar Benefit therein, depending only on the favour of the Magiſtracy, to make an equal Compenſation, agreeing to the Advantage of the Iſſue.

For cloſure to our Publick Objects of Beneficence, ſucceedeth the Diſtinction of *Munificent*; which in honour to the Attribute, we may ſeem in order here to lend but an improper poſition, in Reſpect, that all the former Objects may poſſibly be masked with other private or peculiar Intereſts; whereof *This* altogether reſts only unſuſpected, imparting voluntarily of their Own, without a Reference to any Retribution, or peculiar Benefit whatever. Yet nevertheleſs, ſince commonly ſuch Diſtributions

butions proceed rather from the Excreſcence of a private Store, then ſimply the Benignity of a Generous Inclination, wherein is nothing really of our ſelves, or hazzarded, or communicated, and what is ſo diſpenced uſually, but the Fragments of what our Frailty will no longer ſuffer us to enjoy: ſo that the eſſential Circumſtances of the Motive clearly conſidered, we rather, in favour of the publick Intereſt, have lent ſuch a *Diſtinction* here; a more noble Aſſociation, then properly is inherent to the Nature *Thereof*. Nor can we thereto yield ſo eminent a Qualification in Honor, as might induce Another to an equal Emulation of *Munificence* (where the Donor ſcarce ſurvives the Induction of his Act) more then what the dull Letter of a Monument barely will infer: But to dignifie that Benignity, which ſhall, with a well compoſed Minde, caſt from his Senſe the Charming Miniſter to Vanity and Lux; while yet in the Capacity of Fruition, to conſtitute the reviving Affluence thereof upon the languiſhing Miſery of the Indigent, we no way can afford too illuſtrious an Inſcription to *His* Merit.

2. Before we enter to treat of the *Second* General Object, *A private Beneficence extending beyond the common preſcription of a Civil Devoyr.* Two Arguments, thereon depending, will require a more diſtinct ſolution. *Firſt*, whether the *Publick* may immediately be concern'd therein (remotely *It* alwayes of Neceſſity muſt.) And whether without ſuch Reference the *Publick* may be concern'd to agitate thereon. The *Firſt* Propoſition may, without Difficulty, admit of an Affirmative. The *Latter* not without ſome Intricacy. Inſomuch as private Beneficence may ſometime be conferred on a private Perſon, imployed in a publick Uſe, *Military*, or *Civil*. And in that ſame Degree oft honoured by the *Romans*, who had deſign'd a Crown of Triumph unto him, that had in publick Conflict ſav'd the life but of the meaneſt of their Fellow Citizens; whereby the Band of Unity became amongſt them far more ſtrictly, vigorouſly, and intirely ſecur'd to give a happy repulſe to the fury of their Enemies. But whether the *Publick* be ſo far intereſſed, as to cenſure of the unequal Reſentment of a *Private Beneficence* betwixt Party and Party, is a Subject yet undetermined. If example may bear authentick weight to an Aſſertion, we may produce ſufficient evidence from the Records of many *Civil* Juriſdictions, wherein *It* by Preſcription of the Law hath been allowed actionable, as a *Private Plea*. But in more ſevere Governments, proſecuted by the *Publick* as a Capital Delinquence: As may be inſtanced from the *Athenian* Judicature, *Where* Callias *was publickly arraign'd for his Ingratitude to* Ariſtides, *ſuffering Him and his Children even to periſh through Indigence; by whoſe peculiar favour he had attain'd*

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an eminent Acquisition. In Objection to the procedure of the *First* Pattern may justly be alledged, that it is against the very Nature of a perfect Benefit, ev'n but to expect, much more to exact a Restitution. And he that formeth but a Repetition of the Circumstance of his *Munificence*, blemisheth the Grace of his Benignity. But he that reduceth *It* to the Reproach of the Receiver, perverteth the Nature of his own Intention. In Reference to the *Latter* Rule, though *This* may be alledg'd no proper Subject for the Institution of the Law: forasmuch as neither *Publick* nor *Private* prejudice ensueth the Mecognisance. *This* not endammaged in regard the freeness of the Act taketh away the very shadow of a Pretence. *That* not impaired in Respect the Consequence *Thereof* not immediately reacheth the *Publick* Interest: collaterally it may, in that the Impudence of the vice, not checked, may probably make so great a Breach in the moral Constitution of our *Civil* Union, as to introduce a common Barbarisme.

As to the farther Discussion of our suspended *Subject*, *A Private Beneficence*; the Nature thereof (under the same extent of Latitude in Devoyr, as formerly expresst) may seem inferior to our former General Object in Excellence considered in Gross; in that, *Bonum quo communius eo melius*; but taken in the mutual Coherency of Parts, of a far greater Efficacy to the Structure of a happy *Union*. To a *Publick* Advantage of *this* Nature rarely is encountered Matter but to work upon, and possibly more rarely meeteth a Capacity to entertain *It*. To communicate a *Private Beneficence* every Place, Time, and Person affordeth us both Subject and Ability in one kinde or other; so that rightly distinguished, the most advised Legislators have considerately endeavoured on *This* Baiz to erect the Felicity of their *Societies*. But how the *Publick* should distinguish of such singular Aids totally to be divided from all peculiar References, or how cleerly discerning their Nature, duly to cherish and approve them in an honourable Reception, is a Consequence not unworthy the Reflection. For solution to the first Branch of our Proposition, we may infer, that he justly deserves to fall unpitied, by a Common Decree, under the burden of a future Misery, who shall so far become restrained by the shame of his own Indigence or Impotence, as to smother in his silence either to God or Man, the immediate means to his security. In Reference to the *Latter* Position may be asserted, that to such Manifestation of the Act, may justly follow an exemplary Encouragement from the *Moral Censor*, with due Applause to dignifie the Action.

It may here probably be objected, that having propounded our *Subject* in General, we have as yet omitted, clearly to

handle all the Dimensions thereof; insomuch as we have yet only consider'd *Vertue* in her Communicative Faculties; whereas *Vertue* frequently wanting such materials, may rest confin'd, and only but concentrate in It self. In answer, Although It may seem ev'n against the Nature of *Vertue* to be indu'd with an incommunicable Essence, since both in Example and Precept, she needeth not to borrow the Endowments of Fortune to illustrate her Expansion: but admit the Influence of her Graces so powerful and absolute from her own proper Nature: Nevertheless (to the common reproach of our Age be it attested) *Vertue* wants more material Ornaments to plead for her Reception. Who adhereth to the Counsel of the *Wisest*, if Poverty o're shadow the Consultation, and be his minde never so impenetrably compos'd against the various and continual Batteries of an impetuous Adversity, if obscured in Indigence, Who regardeth or distinguisheth his *Fortitude*. So both his *Justice* and his *Temperance* seem smothered in his Impotence. But happier Ages lend us more exemplary Presidents from their Felicity, where we may observe, that in the most flourishing *Societies*, *Vertue* so humbly seated, did never want her Dignity, as appeareth in the Antick Grecian Glory, extracted from the Justice of *Aristides*. The Prudence and Moderation of *Phocion*. The Fortitude and Magnanimity of *Epimenondes*. Nor shall we need here farther to trace a Prescription to qualifie such eminence with Honour, since we already have in the Inception of our Treatise thereon rais'd the true Capacity to our *Ministry*.

XXXVI. *The Extralegal Punishment of Vice.*

HAving lent a competent weight to one extream of the Beam whereon our *Civil Union* chiefly doth depend, in dignifying *Vertue* beyond the due Intention of the Law, we may persist to cast an equilibrate Counterpoise in the opposed Ballance: In the *Prosecution* of Vice beyond the full Prescription of the Law, that from thence an harmonious uniformity may issue from the Texture of the *whole* Frame. *Vice* is the General and Principle Subject all *Civil Societies*, by rigour of their Laws endeavour to suppress, as the only promotor to Sedition. But few with so exact a Circumspection, as the Consequence of the Subject may require to the due modelising of a perfect *Society*, in that, *Vice* thereby becomes impeachable under the Prescription of anothers Prejudice, not simply under Notion of *Its* proper Nature. As though the germinating seeds of *Vice*, or the Effects *thereof* could be contained long within the Limits of a peculiar Continent, or the whole Body long preserved

ſerved ſound, where the Members Thereof are already in themſelves corrupted: To avoid which Danger, it were materially uſeful, to take away the very Appearance *Thereof* ev'n in the firſt Eruption. And leſt the Indulgence or Neglect of Parents ſhould farther yet the growth *thereof* in their licentious Iſſue, e're they become of due Capacity to a *Civil* Correction, 'twere neceſſary ſuch Remiſneſs in them were either check't by Fine, or Publick Infamy.

To attain yet a more clear Diſcovery of the Nature of our *Subject*, in Reference to our *Common Welfare*, we will reduce *It* with Relation only to theſe Principles, *Divine*, *Civil*, and *Moral*.

Under the Intimation of *Divine*, we chiefly may compriſe Enormities are perpetrated againſt God, or his Sacred Inſtitutions; which being the Supream Authority, from whence all humane power pretends to be deriv'd, ſhould more ſeverely be preſerv'd from violation, ev'n to the due Conformity of the ſubordinate *Miniſtry*. And although we may in this Inſertion, ſeem to digreſs from the Intention of our preſent *Treatiſe*, as an improper Object to our *Civil Miniſter*, extending far beyond the Latitude of his Faculty: yet, inſomuch as the Remonſtrances, Menaces, or Exhortations of the Divine Miniſter, are unto Carnal and to ſenſual Spirits but an ineffectual Procedure to the due Reſtraint of our common Corruption, where the *Civil Miniſter* becomes not coadjutant to rectifie the Diſorder, we may conclude the inconſiderate Neglect Hereof muſt inevitably form the *Civil Power* leſs ſucceſsful in her *Miniſtry*, declining totally to agitate on the Infringement of Superior Orders. The Fundamental Eſtabliſhment of their own. The firſt and higheſt Degree in ſuch Delinquence, is *the denying of his Eſſence*, who of free Grace and Goodneſs imparted to us ours, which Diſclaimour moſt juſtly may deſerve the Forfeiture of his Tenor.

Subordinate to *This*, is *the Derogating from his Sacred Attributes*, which being properly and immediately inherent to his Holy Eſſence, more opprobiouſly and maliciouſly endeavoureth in Contempt to deny that ſupream Power, he is enforced to acknowledge: Nor can ſuch a preſumptuous Repugnance againſt the inward Light be reputed in humane ſenſe leſs hainous *then* the former.

Contingent to *Theſe* is *the Prophanation of his Name and Sacred Ordinance*, either in Licentious Diſcourſes or Actions, tending irreverently to the Miſpriſion of his adorable Eſſence, or his Holy Rites: which extravagant inſolence may juſtly merit to be ſuſpended from the Priviledge of a *Common Union*.

Collateral *hereto* is *the ſolemn Invocation of his Sacred Name to the Atteſtation of a matter falſe, or falſified*; which without Refe-

Reference to anothers Intereſt, as the Signet only of our own ſerious Reſolutions, is a Crime of a moſt reproachful Levity, which requireth before God and Man, a penitent and high ſubmiſſion. But wherein others Intereſts immediately are concern'd a Crime of higheſt Treachery: In Reſpect ſuch Aſſertions give Rules unto the Law It ſelf, which is our common ſafeguard. But this Branch of our *Subject* falling under the Preſcription of a *Civil* Penalty. We ſhall not farther here inſiſt to treat upon, Reſerving the Perſuit Thereof to a more proper and peculiar order.

Farthermore we may yet hereto not improperly inſert the *Common* and *too frequent uſage of His Name in vain*; which heedleſs Cuſtom forming into Habit, inſenſibly detracteth from that awful Reverence, ſhould be revived in us on every explicit Intimation of *his* glorious Diſtinction. Nor can a more effectual Reſtraint be formed to ſuppreſs ſuch unadviſed Imprecations, then a private Reproof or a publick Reproach from *His* peculiar Miniſter.

2. What may enſue from the Licentiouſneſs of *Vice* to the Infringement of the *Civil* Order, we here may properly omit to treat upon: inſomuch, as the general Inference *Thereof* hath herein only Reference to the Impeachment of anothers Intereſt directly and immediately. A common Principle to the Deciſion of right, which may more clearly be enlightned in the peculiar Order, we deſign to the Diſcuſſion of each Branch thereof, only we may here generaly Note, that ev'n therein moſt Laws too ſtrictly oft adhere more to the litteral formalities of a Plea, then the eſſential Reſult of a Proof.

As to the *Moral* Diſtinction of *Vice* which fall not under Latitude of a *Civil* Penalty, being the peculiar Object of our preſent diſcuſſion, we will yet more intentively endeavour to reflect upon.

Unity and Concord being the chief Objects ſhould guide us to the laſting Eſtabliſhment of a happy *Society*, it will be materially pertinent in the ſearch thereof, to viſit the primitive and ſecret underminings of a mutual Agreement, which may undoubtedly be diſcovered in the firſt ſubtle Practice of Mans common Adverſary, under the Figure of a concealed *Malice*; whence *This* privy Ranchor ſhould take Original, may probably be judged from a repining Envy, contracted by the ſenſe of a Diſparity in their preſent Conditions. *This* ſeed of common Sedition from thence ſcattered into the Heart of man, to finiſh in our overthrow, what This Impoſture had ſo effectually commenced, by a perpetual commotion in our *Civil* Communities, hath enforced the exacteſt Conſtitutors of a *Civil Society* (not being able to extirpate the Roots *hereof*) utterly to remove

thoſe

thoſe Cauſes from amongſt them, which might conduce unto the Birth or nouriſhment thereof, as *Licurgus in taking away the uſe of money.* And the primitive * *Romans in the equal Partition of their Territories.* But the Corruption of ſucceeding Ages falling from ſo happy Principles of *Union*, require more Circumſpection in the mannagers of *Rule*, to the expulſion of ſuch venome from the *Civil Frame*: which better to diſtinguiſh, we properly may lend to *it* this Signature. *Malice is a ſecret and violent Tranſportation of the will unjuſtly to procure Evill to Another, may aſſent to our proper Detriment, proceeding from the affected Advantage of Anothers Endowment.* * *M. Curius.*

Sundry branches, ſome more or leſs immediately iſſuing from *This* ſtock, become more or leſs prejudicial to the *Common Unity*, as the Degrees of virulence lend Influence to the firſt Contraction, which may clearly be diſtinguiſhed in the common Conſequences of *Slanders, Calumnies*, and *Detractions.* Others more remotely, as *Inciviliities, Affronts, Diſgraces* in general, *Scoffing*, and *Deriding*: All which particulars we ſeverally will examine, more truly to diſcover the full weight of each irregular Motion, may form a Diſcord in our *Civil* Harmony.

At firſt Inſpection it may appear an Impropriety in our order, here to inſert the Treatiſe of a *Slaunder*, being a *Subject* propounded by the Law within the Limits of a *Civil* Penalty, but with ſo ſtrict a Reference to the *Letter*, that few Degrees of Obloquy will, under the common Rules thereof, fall within the exact Diſtinction of a Scandal: as if the nice Formalities of the Law intended but to ſport with private and refined Infamy. To ſupply this Default in a *Civil* Preſcription, we will endeavour yet more amply to define the Nature of *Slaunders, Calumnies*, and *Detractions*, with their enſuing Damages to a *Civil* Union, leſt that their proper and implicit Sences ſhould become confounded under the Notion of one common Diſtinction. A *Slaunder* here intended, *is a falſe ſuggeſtion againſt another legally extending to a Criminel Matter.*

Calumny, A falſe Aſperſion, extending only to the Civil *prejudice of another.*

Detraction, ſimply inferr'd, *is a falſe Suppoſition obliquely inſinuated to blemiſh others Honour or Applauſe.*

1. How material Breaches in a *Civil Union*, may enſue the ſufferance or the ſlight Reſtraint of *Slaunder* (though taken in the obſcureſt and remoteſt Latitude of Sence) may evidently be conceived, when we ſhall ſeriouſly reflect on the inefficeable Impreſſions are ſecretly left behinde the Publick Diſcuſſion *Thereof*, in the unreſolv'd Conjecture of the Auditors: So that though the miſchief of the ſuggeſtor be clearly convicted, the innocence of the Plantiffe remains not fully vindicated, where-

by unequal Reſentments become fomented, to proſecute ſuch illegal Reparations, as probably may extend to the extinction of many *Families*, if not unto a general Commotion in the *Civil Frame*. Nor can the extent of a Legal Verdict, directed only to a pecuniary Amercement, become an equal compenſation to the Injury. Where the malicious Impeacher of anothers Fame remains unbranded with ſuch Publick Infamy, may render him more obvious to a *Civil* Incapacity.

2. *Calumny*, though formed from the ſame Original, makes ſlighter Incurſions on our *Civil* Fame; yet may the leaſt Degree *Thereof* not paſs the Burden of a *Civil* Cenſure, ſince our common Reputation is the viſible Foundation to our Livlihood, or *Civil* Faculty: So that the ſecret and frequent Expanſion *thereof* meeting with the Corruption of our humane Nature (prone to exagerate the very ſhadow of anothers Infirmity) may poſſibly reach the extinction of the Natural Exiſtence.

3. *Detraction* takes a lower flight, by remote Tracts to winde the Matter to as high a pitch, leſſening *It* ſelf till *It* become not obvious to the ſence; which with more Art diſguis'd, requires more Art in the Diſcovery. *Her* Traces hold no uniformity, but often ſhift the ſhadows of the Scene to trouble or confound the Appearance of the Matter, with an Ambiguous or oppoſant Light. So that the Intereſſed not only hereby hazzardeth his preſent Advantages, but becomes unequally impeacht of Evils not in queſtion. While the envious Impoſture caſts the Contagion of his Venome, without the Danger of Contraction. From hence (though more remote in Nature, more ſudden in the Operation, and conſequently more conſiderable in the Circumſpection) proceed Acts of *Incivility*, as *Affronts*, or *Diſgraces* in general, *Scoffings*, and *Deridings*. The malignities of the *Former* moving more ſlowly, afford a time to lend the *Civil Miniſter* a Capacity to allay or ſtop the vigour of the Infirmity e're it attain the height. *Theſe*, like Tinder, catching fire at the firſt Eruption, ſeldome become extinguiſht, but with untimely Slaughter. In which Regard, It may become a wonder to a digeſted ſence, to finde moſt Laws ſo unprovided or ſo ſlack in the Reſtraint *hereof*, as not, in the leaſt manner, to reflect on their Nature, or their Conſequence, ſince both directly tend to the Infringement of the *Publick* Peace. By which Neglect the injured is prompted to purſue unequal Reparation to his wrongs. *Affronts* more inſolently and deliberately determine a Diviſion in the *Civil Frame*. *Scoffing* more ſlily and obliquely. The Arrogance of *That* ſeems to aſſume a priviledge to impoſe a Rule. The ſubtlety of *This*, but to inſinuate a form in common uſage.

Not inferiour to *theſe* are Acts of *Inhumanity*, whether in the

the omission, or in the rigorous and untimely execution of *Civil* Rights; which most men (judging soly confined to the Injunction or permission of the Law) make those the Stations of their *Civil* Duty, which are but fixed Lights, erected only on the extreams to avoid those shelves procure a common shipwrack. To the *first* Point we must come, to the *Latter* we may come, under this Caution, *Summum Jus, summa injuria. Extream Right, is extream Wrong.* Betwixt *these*, and the common Continent of a *Civil* Devoyr, there are many Degrees of Latitude, not specified in the Letter, to leave the will more Freedom in the Election of the Good or Evil, which thereby only are intitled ours. Nor can he justly be admitted as a Member to the *Civil* Structure, whose Actions do endeavour to deface the very Nature of that Being doth qualifie him with his Distinction. How far *This* Savage Attribute may be repugnant to our *Civil* Order, explicitly is implyed in Intimation of the sence *Thereof*, expressed in the Letter, inferring a satisfactory and inflexible persisting to the Destruction of our kinde. To what extent might be reduc'd the Nature of our *Subject*, not easily is distinguisht; since each remorsless sence of others suffering tending to Ruine, we impose or farther, may form thereto a perfect Definition. A proof whereof adjudg'd, may be extracted from that *Roman's* entertainment, *Who, on Reception of his Page, that much perplext his Sickness had detain'd him till the Period of the War, in that he ne're had seen the Slaughter of a Man; To satisfie his Reproachful Curiosity, commanded straight a Criminel to the Block:* for which he by the *Censor* was expell'd the Senate.

As Twins, falling under one Similitude in Nature, may hereto be annexed Acts *unnatural*, as the Inemnity and Neglect between Parents and their Children; Brother and Brother, and other nigh Relations in Affinity; where both Divine and *Civil* Institutions joyn to engraft the strictest Band of Unity, to lay a firmer Baiz unto the lasting Structure of a *Civil* Government, as may be instanc't in Conjunction of old *Israels* Tribes, who farther were by severe Laws enjoyn'd to support and supply the Members of their Families, even to the nighest union. Nor can in Reason it be figured, that any person Cordially should adhere unto the *Publick* Interests in remote Agitations, who so reproachfully deserteth the Contingence of his own in a nigher Intercourse.

Not far remov'd from *This* in Consequence are Actions of *Ingratitude*, when as the due Resentment of a free and timely Comfort to an afflicted Condition utterly is extinguished, an Impropriety so incongruous to a *Civil* Community, That common sense in every Beast may lend *It* infamy. The Oxe and the

the Aſs know and acknowledge the hand to them adminiſters. And the moſt Savage will become reclaim'd, where they accept to Nature a Refection; whence man, of all diſtinguiſhing Creatures, ſhould receive ſo unequal an Impreſſion, muſt either be the Arrogance of his haughty Spirit, deteſting to appear inferiour by a *Civil* Fealty: or elſe the Avarice of his forſaid Nature, retracting the Acknowledgement, leſt It in *Civil* Rules might challenge a due Compenſation: Both which Sources are to a *Civil* Union equally incommunicable. How far the Iſſue yet may probably obſtruct the Circular Motion of our *Civil* Body, in a reproachful *Recognizance*, may, to the groſſeſt ſence be clearly evident; conſidering no Conſequence can ſooner form Reluctance in the will, to do another good, then where our full Endeavours meet ſo bruitiſh a Reception.

Having thus traced out ſome irregular Motions in our *Civil* Frame, under a more Eſpecial Reference unto *others*; we will endeavour now to treat of ſome Diſorders, under a more immediate Reference to our *Selves*, not pretending to attain the full extent of either. But to caſt ſuch a ſhadow thereof on our preſent *Work*, as may comparatively form the unexpreſſed more diſtinguiſhable, and hold a fairer *Simitry* with the Capacity of our *Treatiſe*.

The *Subjects* we would hereupon infer, are Actions of *Licentiouſneſs*, as *Drunkenneſs*, *Luxury*, *Gaming*, *Riot*.

Drunkenneſs may poſſibly appear a *Subject* here improperly inſerted in our Order; in that moſt Laws may ſeem to form thereto a due Puniſion. Yet in Reference to the Nature of the Crime, not totally equivolent, weighing judiciouſly the common Damage thereon may enſue unto the *Civil* Texture, in regard it is a reproachful exhauſter of the Publick Store. A certain Ruine to a private Family. An apparent Introduction to every Miſchief. A temporary Diſſection of a Member from the *Civil* Frame. Under what Degree of Diſorder this Diſtemper truly may be diſtinguiſhed, is not altogether unworthy a due Perpenſation, ſince the vulgar, in favour of their ſenſuality, have lent *It* ſo groſs and ridiculous a Character, as is not to be encountered but in the higheſt extremity. But far more rationally may be affirmed, That every extravagant Emotion of the Spirit, and every impotent and irregular Motion of the Body, by drink procur'd, may figure the Diſtinction.

Under the Intimation of *Luxury* may be imply'd all ſenſual Exceſſes whatſoever, more eſpecially the inordinate Indulgence to the inticing Reliſhes of the Pallate, and the laſcivious and unlawful Proſecution of a Bruitiſh Luſt. How far the common Conſequences *Hereof* may reach the Detriment of the *Civil* Structure, we will endeavour clearly to enlighten. Our *Subject* taken

taken in the *former* Sence, is not only a superfluous Consumer of the Publick Affluence to the enhancing of Provisions, most useful to a common Existence; but, with the inevitable Incumbrance to our own private Fortunes, also a visible extinguisher of That, which *It* pretendeth but to cherish, smothering or enfeebling the innate Heat, the immediate Instrument to every Faculty of Nature. So that not only the Body, but the minde becomes hereby obscur'd, effeminate and slothful, and consequently unuseful to every *Civil* Practice. Farthermore, the Charms of this Indulgence to our proper *Genius*, so endeareth the Affections to a bruitish Sensuality, that it totally alienates the Thought from any sense of others suffering, so far, that *It* becomes unto the *Civil* Frame a Burden incommunicable. *This* Subject taken in the *Latter Sence*, though from the other seldom found divided, the *Latter* being usually joynt Issue to the *former*, meeting a Celibate Condition, begetteth either a Protraction, or a perpetual Renunciation of an *Hymeneal* Union, both punishable by the Law in *Civil* Communities of severer Discipline, encountring a Conjugal Estate, *It* breaks that Band of Amity, which is the first strictest and most natural Foundation to a *Civil* Union, in either (if any) *It* produceth but a spurious and degenerate Issue.

That sence which the *Former Attribute* could not reach to in the common usage of our *Tongue*, more properly may under the notion of *Riot* be expresst, having for Object a servile Assubjection to the Adulation of the senses (not formerly thereby inferr'd) at how profuse a rate soever: so that, in Respect of the vanity, This Piece of *Excentiousness* hath a Latitude beyond the Capacity of a Prescription; whether in the Curious, Sumptuous, or Superfluous Ornaments inherent to a Person, Place, or Equipage; or in the alluring Rarities or Exceits of an entertainment, tending rather to exhaust the Affluence of Nature, then satisfie with her Plenty. Where Noise and Vapour to affect the aiery senses more, o're ballance in expence the Rest. Or what other fantastick Ministry to a distemper'd Fancy, tends but to form prodigious vanity, or a ridiculous singularity, which sometime meets so high extravagance, that sundry Figures, Drawn, Cut, or Grav'd in the Mettal, Earth, or Stone, (under the Honour only of Antiquity) become the price of a considerable Revenue. What measure of Disorder may hereby be procured to the *Civil* Frame, will clearly be distinguisht in those Breaches, which the most flourishing *Societies* have suffered under so impetuous a distemper, which like a raging Fire consumeth All to satisfie it self, leaving no Rights unviolated. No Mischief unpractised, to yield new Fuel to the corrupted sense, when the Materials fail to sanctifie the unbridled will. *This* Exu-

berance of the Wanton Blood moſt uſually is engendred in the Greater Veſſels of the *Civil* Body, from whence *It* by the leſſer is attracted, by affected Emulation, till *It* become a general Infirmity, whereby the whole Frame, voluptuouſly effeminated, becomes incapable of any generous Action, ſo conſequently a prey to the ſlighteſt Incurſions of an Enemy.

Gaming, not taken in the ſence of a Divertiſement, but in the Nature of an ardent Perſuit to a diſhonourable Acquiſition, where the Adventurer, to improve the Advantage of his Stock, puts it to the Queſtion, whether his juſt Poſſeſſions be his own. A ridiculous and bewitching Itch of Avarice, where each one, in ſport, perſues Anothers Ruine in earneſt. In the Victor the Facility of the Acquiſition begets a Profuſeneſs in expence. In the vanquiſht a ſelf-conſuming Rancknur to repair the Dammage: ſo that neither attain the end of the undertaking, ſince both become fruſtrate in the Improvement of their Condition. The *former* ſwelleth with vanity of ſucceſs, although not raiſed on his own ſufficiency. The latter ſhrinks away dejected as guilty of his Folly, more than aſhamed of his Fortune. Nor yet alwayes ſo ſilently paſſeth the Debate, Execrations and Imprecations uſually fill up the Scenes, which frequently are cloſed in a Tragick Iſſue, the Interlude too probably the Prelude to a Quarrel.

How materially the unreſtrained Liberty hereof may conduce to the Dammage of a *Civil* Society, we need not to infer, when we ſhall reflect upon the Conſequence of the Practice, tending to a certain and ſudden extirpation of a Family, where the falling Pillar not only ſhattereth his own Branches, but either becomes an uſeleſs Burden to the whole *Frame* in a paſſive Indigence, or a common Incendiary in ſiniſter Practiſes, to ſupply a Recruit by deſperate Attempts. We have omitted to propound to every exorbitance an equal Penalty, according to our former Order. In Reſpect that divers Circumſtances, both in Action, Place, Perſon, Age, Sex, *&c.* may not only vary the Meaſure of the Error, but the Nature alſo of the Penalty, which can only meet a plauſible Infliction in the Judicious Impoſition of the Moral *Cenſor*.

XXXVII. *The General Properties inherent to our Civil Exiſtence, with their legitimate Fruition and Poſſeſſion.*

BEfore we proceed to treat of the *Security* and *Improvement* of our *Civil Property*, in Order immediately enſuing: It will firſt be requiſite, that we ſhould fully and clearly diſtinguiſh

guish the Dependences thereof, with their Legitimate Possession and Fruition, without which, our Enterprise will, in the most perfect Contexture encounter but an improper Issue, since Rebels, Out-laws, Thieves and Rovers may in their common Association, possibly pursue an equal Method to preserve the Spoil, Rapine, and Murder had congested; yet not attain the Dignity or Glory of a *Civil Society*. In order to our Proposition. The General *Properties* have Reference to our *Civil* Existence, may properly be specified under these Distinctions, *Wife*, *Children*, *Servants*, *Office*, *House*, *Lands*, *Chattels*, or *Moveables*; To which we become legally entitled, either by a just *Acquisition:* a free *Donation*, or a lineal *Succession*. How far, and in what the Nature of each *Title* may hold a due Conformity with each *Property*, we severally shall endeavour to discover.

Though the explicit sence of *Acquisition* may seem improperly applyed to so solemn an Institution, as a *Conjugal* Relation, in that the sympatherick Influence of Nature often secretly determines the Contract, before the Overture is published, constituting the subsequent Agreement rather a *Donative*, then a sollicitous Capitulation: nevertheless in Respect, the implicit Inference *thereof* may reach beyond the vulgar usage of our *Tongue*, we will apply *It* to the vulgar usage of the Ceremony, being in their Practise frequently, but a Mercinary Compact: under which Latitude of Sence, may be comprised divers species of *Conjugal Acquisition*; as that of *Violence*, which probably may be judged the most improper and unlawful kinde imaginable. Insomuch, as the Proceedure is altogether repugnant to the first, Natural, and most legitimate Motive of union. *Love*, yet weighed with a Reference to some Consequents, an enterprise unimpeachable, as the primitive *Romans* Incursions on the *Sabines*. And the abandon'd Remnant of the *Benjamites* on the relenting *Tribes*; where the inveterate enmity of an Adversary maliciously would endeavour to extirpate a People, by intercepting so the course of Nature in a lawful Propagation.

In all other Respects every *personal Violence* herein may properly be held a Capital Delinquence.

Whether a *Collateral Violence* herein, where the assenting Childe is forced from the dissenting Parent, be a Crime so highly punishable, as the rigour of the *Civil* Law exacteth, imputing *It* equivalent to a Rape, is an Argument not unworthy an exact Discussion, since our most Legitimate inherence of Right is constituted in our own Natural Production. And the most proper and plausible Motive to be successive continuance of that Production, the impulsive Influence of a vertuous Love.

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The *Civil* Ballances thus counterpoised, we will endeavour to remove the Impediments may probably obstruct their Motion; whether in Reference to *Sex*, *Age*, or *Condition*. As to the Distinction of *Sex*, no Law admitteth the *Male* to a capacity of a *Conjugal Violence*, either *Personal*, or *Collateral*. Many subscribe to the disanulling of the Contract transacted without the Paternal Agreement: so that we may conclude the *Female* here only capable of a *Personal*, or a *Collateral Violence*. Neither can her Consent before Maturity for Generation free the Attempter from the Guilt of a *Personal Violence*. In Respect, the natural Motives to such *Union* are yet to them field indistinguishable. From the Impeachment of a *Collateral Violence*, no *Age*, under the Paternal Tuition, can exempt the undertaker; her widowhood falls not under such Prescription; insomuch, as the Parent hath formerly made a surrender of his Title in a free *Donation*, and her Husband deceasing, leaves her as Head to the successive Government of his Family.

In Reference to the *Quality or Condition*, why the Law should form the Distinction of a *Violence*, from her *Civil* Endowments, is not clearly obvious to a rational Inspection; since every *Violence* hath only for Object, the Impulsion of the will, either *Personally* or *Collaterally*, in Reference to the Infringement of anothers Interest, which is either *Paternal* or *Guardiant*. The former our Laws reflect not on, possibly, in Respect, it yet resteth in the Capacity of the *Parent* to frustrate the Fruition of her Pregnances. The *latter* being but a Relation of Trust, can less in Reason, challenge the Priviledge to such a Procedure, not rightly entitled to a *Property*, unless we should avow the venal Acquisition of the Tutelages, now abolished, to the approved Ruine of a Family, which might yet nevertheless more equitably have been repaired in the Censure of a slighter Trespass, than not the Dignity of the Prince herein been immediately or remotely blemished; which being only successive to the *Paternal* or Natural Authority, why should the *Parent* be excluded such a Priviledge, where the succession is unalterable, depending on another Line: Which Proposition leads us again into the current of our suspended Argument, whether the *Parents Dissent* only in a *Conjugal* Contract, may equitably fall under the Censure of a Rape? The Supream, Sacred, most General, and Authentick Rules to illuminate our wayes in the intercourse of humane Society afford us no approved Proof of *Conjugal* Union, but what hath been derived from the Agreement of the natural Parent; whose Reception of the Addresses properly did form the Introduction to the Contract: insomuch, as the first most visible and legitimate Inherence of Right, is that which is extracted from the course of

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Nature. *This* Procedure seems also most authentickly confirm'd in the Formality of the Ceremony, where the Transaction passeth from the Parents hand, or one that Personates his presence. In competition to the Filial Liberty herein (which probably might lessen the Nature of the Trespass) may be alledg'd the Irresistable Influence of the Celestial Orbes ordain'd to such Impressions on Inferior Bodies, as may impulsively attract them to an Union, without the Consultation of the will, which not submitting to the exactest Result of the Interior Light, in opposition of their Motion, may equitably be dispenc't from the subordinance to anothers will, when as not under the subjection of our own. Nor can the Advantages of Fortune, which usually herein o're-sway the Parents Inclination, be a plausible Inducement to so material a Consequence, where the Perfection of the Institution dependeth immediately on the mutual Agreement of the Interior Faculties, which in their Conjunction can produce but a degenerate Composure in Another, when formed from so Gross and Corrupt an Object. In favour of the *Trespasser*, where her *Civil* endowments are but voluntary or casual, may be alledged the Sincerity of the Motive to an honourable Persuit, limiting his Pretences in the Fruition only of her Person, without the Inherences to her Fortune, having in the Disorder of his Proceeding frustrated his Capacity to acquire it. From the Result of our Discussion, may possibly be formed a Conclusion sufficient to suspend the Impeached from a Capital Offence; but nothing yet from thence infer'd, might counterpoise the Parents Injury in the Miscarriage of a Childe, did the Loss extend no farther then the Ravishing of his Comfort might have redounded from the endearments of an agreeable Community, if but establisht by his Counsel or Election. In Reference therefore to the *Trespasser* may be affirm'd, that to the Disobedience of the *Childe* is justly ballanced the forfeiture of her Patrimonial Inherency. To the Insolence of the *Violator*, such Reparation in Honour, as the Dignity of the Family may require. In the sequel of our purpose remaineth yet a Difficulty not enlightned, whether *it* rest in the *Civil* Capacity of the *Parent* to disanul the Contract past by Nuptial Ceremony? For solution to the Question, may be reply'd, Few Laws herein dissent from the Affirmative. But how such Procedure may be consistent with the Honour or Advantage of the Childe, or yet the *Parents* future Satisfaction (All conjugal Rights transacted) is indistinguishable.

Another kinde of Conjugal *Acquisition*, more properly so tearmed, is the *Venal Acquisition*; where the *Acquisitor* purchaseth his Pretences from the *Parent*, for a certain summe of Mony, or other Consideration, which passeth sometime under

the formality of a Preſent. A Method of *Acquiſition* very improper and unſuitable to the Practice of our Age, where the higheſt perfection of perſonal Endowments, cannot win ſo much as the ſhadow of Attraction on our ſordid Inclinations: yet wants it not the Authority of the exacteſt Models of a *Civil Society*, to form the Inſtitution Regular. Probably in Reſpect, that ſuch Proceeding is the higheſt Pledge to an inviolable Amity, the ſureſt and moſt plauſible Foundation to the happy Condition and end of ſo neceſſary an Inſtitution. But whether ſuch Forms of Contract may meet no Inconvenient in the Conſequence, is not ſo clearly obvious: Inſomuch as the Nature of the Introduction may poſſibly figure a more high and unequal Inherence to the *Property*, then probably may be conſiſtant with ſo perfect an Amity; ſeeming in the intention, rather to imply a Diſtance of Servilty, then a Coadjutance in the Miniſtry: We may therefore herein conclude, that a mutual Retribution of the *Civil* Faculties is as proper an Order to a happy Inſtitution in this *Civil Union*, as the reciprocal communication of the *Natural* Faculties is to the ſucceſsful Conſtitution of the *Natural* Union: yet in either Tranſaction will ſuch a method be preposterous, if the Motive thereto do proceed rather from the means, then from the end or Object of the Inſtitution: to the perfect forming whereof, the *former* ſhould be but a concealed ſubſequent to the *latter*, not a primary and viſible Inducement. Such Procedure, among the *Spartans*, adjudged ſo irregular to a happy *Union*, that *it* fell, by publick Ordinance, under the Cenſure of a *Civil* Penalty.

The ſucceeding *Title* to a Conjugal Adherence is that of *Donation*, the moſt uſual, proper, and legitimate Method in conſtituting ſo material an *Union*, where the uncorrupted will moves freely to a deliberate Reſult in the Election, that a happy and agreeable Community may thence iſſue to every Branch inherent to the Alliance. To what Latitude the Agreement of Parties may juſtly be extended, is a Subject not altogether inconſiderable. The *Parent* and the *Eſpous'd* may probably here limit the Propoſition, though Cuſtom, in *Civil* uſage, requires it ev'n from the Remoteſt of the Family, yet rather under a Form of Ceremony, then a Pretence of Right. But why the Maternal Aſſent (ſhe being the ſole Regent to her Family) ſhould here not be admitted to an equal Priviledge, in the ſucceſſive Authority to her deceaſed Husband, as to appear a Principle in the Ceremony, is a *Civil* Impropriety, ſcarce ſhadowed with a Rational Preſence, unleſs the practice be voluntarily waved, in favour to the decent Reſtraint of a womanly Paſſion, which might poſſibly extend to a diſorderly Erruption, perſonally to ſeparate from her ſelf by her own publick Act,

whom

Whom tender Nature had so nighly united.

From the example of that exact Pattern of Morality, *Cato Vicensis*, may here be possibly infer'd a Proposition, which seldom could elsewhere finde out a President, but in licentious Practises, whether *the Conjugal* inherence may be (with due conformity to *Civil* Rules) transacted by the Principle to anothers Possession, as a Common *Property*. The solution may properly without contradiction, pass in the Negative. Insomuch as there was a mutual Reception in the Contract, and the Husband not in right impowr'd to alienate himself from her Possession; to whom he was confer'd by his own proper Act. Nor can a joynt Concession from both Principles form equitably a Retraction of so strict a vow in so solemn an Institution. In Reference to *Cato*'s procedure herein may be alledg'd, that such elevated and refined Spirits, have in the source and course of their Communities more noble Objects, then the vulgar can reflect upon, as the plausible Reception of his Wife again on her first Widowhood may express. Such Traces therefore can visibly form no proper Rules to common Actions.

The *latter* Method of a *Conjugal* Investure is that of a *Succession*, an Order not any where found in use, but in the *Judaick* Society. And there also under a Conditional Position, *If the Brother died without Issue*. The intention of the Prescription had possibly both explicitly and implicitly a plausible Pursuit. Explicitly, the support of the Brothers Name and Family. Implicitly, that such a nighness of Relation might more peculiarly in them engraft a stricter *Union*.

To the Right of *Possession* must necessarily proceed the Right of Institution, either *Civil*, or *Divine*, as the Legislative Power shall adjudge most proper to the Nature of the Transaction; which concluding in the *latter*, may possibly lend more weight unto the Ordinance. But both tending to a due and orderly establishment, require authentick Publication, to avoid promiscuous, scandalous, and litigious mixtures. Whence consequently ensues this Proposition, Whether private, and concealed Contracts, under what form soever passed, tending to a *Conjugal* Union, may be admitted to the full Capacity of a legal Institution. For solution, may be affirm'd, that such Agreement equally and effectually may engage the Transactors to a mutual Coherence. But not oblige the *Civil Society*, to an equal Reception of their Transactions under such Distinction, until by perfect and authentick Publication specified.

One Ambiguity inherent to our *Subject*, may probably here require a due Discussion, whether the Allowance of *Poligamy* might prove consonant or useful to our *Civil* Order. If the Felicity or security of a *Civil* Society consisted in a numerous mul-

multitude; the certain'ſt means to attain it in a lawful Propagation might be allowed warrantable. But queſtionleſs, a due Proportion of the parts thereof is requiſite to form a perfect Harmony in the *Civil* Frame. A noxious Repletion may as well happen to the Body *Politick* as *Natural*; both *Quoad Vires*. In reſpect of becoming a burden to the whole Frame, or *Quoad Veſſa*. In regard of the exceſſive Extent of each peculiar Continent beyond a due Capacity of Reception. Furthermore, *Unity* being the ſole Object of a *Civil* Felicity, can no way rationally be attained in ſo unequal a Diverſity.

Having thus ſent a legitimate Preſcription to the *Conjugal Union*, e're we proceed to treat upon the ſubſequent Particulars, it will be yet material here to trace a Rule to their legitimate *Separation*, in Reſpect, it poſſibly may extend to ſo valid a Retraction, that each ſurviving party may legally be endowed with Capacity to tranſact their Perſons, on another in a new Election.

To what Latitude of ſence a legal *Separation* here may be extended, is not yet clearly obvious, ſince vulgar uſage thereby only would imply a temporary Diviſion, either voluntary or Impulſive. The *Total* only falling under notion of Divorce.

In Reference therefore to ſuch Diſtinction, we will proceed to agitate on their Nature. *A Conjugal Separation* is either *Extralegal*, or *Voluntary*, or *Legal* and *Impulſive*.

Extralegal or *Voluntary Separation* is ſuch a Diviſion in a conjugal Union, as may be conſtituted by mutual Aſſent or Agreement of the Parties, which may either be repealed or continued, without any Procedure or Formality of the Law.

A *Legal Separation* is ſuch, as by due courſe of Law becomes impoſed on complaint, and by due courſe of Law, may with conſent of Parties be repealable; if irrepealable, the true Diſtinction *Thereof* more properly falls under Nature of *Divorce*.

The *Extralegal* or *Voluntary Separation* form'd from Divine or Moral Preſcription, not reaching any *Civil* Ordinance, we will omit here farther to diſcuſs upon, as altogether improper to our *Subject*.

The Legal or *Impulſive Separation* preſents unto us a double Ambiguity, whether, and on what Ground, ſuch *Separation*, may plauſibly be conſtituted by a *Civil* Ordinance: And whether any Act under ſuch *Separation* paſſed joyntly or ſeverally, wherein both Parties are concerned, may be accounted valid.

For ſolution, we may conclude, that ſuch a Procedure poſſibly may juſtly fall under the Conceſſion of a *Civil* Judicature. But with this ſtrict Limitation only, where a viſible Attempt hath been practiſed againſt the Life of either party by the joynt Aſſo-

Aſſociate, in regard our common ſafety is the immediate Object of a *Civil* præſcription. And although it here may be alledged, that the *Civil* Texture hath more forceable and general Rules form'd in it ſelf to the due reſtraint of ſuch Accidents. Yet where the Fewel to the Action ſo nighly and continually is fomented, the *Civil* Judicature might juſtly be held guilty of the barbarous Iſſue, ſhould *It* decline from the removal of ſuch opportunity, might miniſter to the Miſchief.

As to the Tranſactions joyntly may concern the *Conjugal* Union under a *legal Separation*, we either may reduce them to a *Civil* or a *Natural* Reference. The *Civil* have their Limits under private Contract or under publique Ordinance.

The Natural ſuſpended by Decree, cannot without a publique Repeal, either ſeveraly or joyntly tranſacted, attain a true Legitimacy.

The nature of a *Divorce*, extendeth to a vaſter Latitude, having for Object a total or perpetual *Separation* from a *conjugal Society*, impulſively conſtituted by a *Civil* Ordinance,

But under what Remonſtrance ſuch a cenſure may juſtly paſs the *Civil* Judicature, is not ſo fully ſpecified. Acts of Adultery are only explicit'ly expreſſed in the ſacred Letter, and ſo far proſecuted by the Inſtitution of the Civil Law, but under ſuch Obſcurity and Difficulty in the diſtinction, that the intention thereof totally thereby becomes fruſtrate. In Reference to the *Firſt* obſtacle, where the ground of the Procedure falls under a criminel Treſpaſs. The Præſcription vainly tendeth to a *Civil* Diviſion, in Relation to the *ſecond*, where the Charge requireth an occular Teſtimony to forme the Impeachment regular; the proof reſts totally o're-ſhadowed with a humane impoſſibility.

We may yet more properly hereto annex ſuch incapacities as may fruſtrate the intention of the *Conjugal* Inſtitution; whether *Civil*, *Natural*, or *Accidental*.

Under the Notion of a *Civil* Incapacity, may paſs not only ſuch, as are excluded by a common Præſcription in the *Civil* Order, as *Ideots*, *Lunaticks*, *&c.* But ſuch Relations alſo of a Blood, as in regard of their Proximity may decently fall under Legal Interdiction, *Qui loco Parentum inter ſe habent*, &c.

Under the diſtinction of a *Natural* Incapacity, we may infer ſuch incorrigeable Imperfections, as by nature happen through the error of her work.

The *Accidental* Incapacity may be extended to Præternatural or Artificial Affections.

The *Præternatural*, where either Naturally or Adventitiouſly, *ex morboſa aliqua conſtitutione partis aliquid deeſt, vel ſupereſt*; *by imperfect conſtitution of Parts, ſome thing is either wanting or ſuperfluous*. The *Latter* Imperfection may fall un-

der the possibility of a Remedy to render it a capacity of *Conjugal Union*. As *Imperforate*. The *Former* never.

Under an *Artificial* Incapacity may be inserted such an Impotence, as is contracted by inward Assumption or outward Application, or by Enchantment, as *Ligati*. But in respect such disabilities seldom are incorrigeable, we cannot justly exclude them from capacity of *Conjugal* union.

Some difficulties inherent to our *Subject* may pertinently be here enlightned, as whether such a legal Incapacity ought to be subsequent or preceding the *Conjugal* Association? And whither such an Incapacity predistinguishable may justly, in concealment, fall under censure of a *Civil* Trespass.

The *First* Position seems a scruple scarce worth an Exposition. Since every just pretence of a Retraction in agreement (of this kind) is grounded on Deffaut preceeding contract. The *Latter* being a Subject more proper to another *Principle* we will remit to their peculiar Order.

2. From the perfect fruition of the *First Property* usually proceeds the justest *Acquisition* of the *Second*. *Children*, which nevertheless, without so strict a Reference, materially may be considered under the Distinction of the *Natural* and the *Civil*.

The *Natural Acquisition* is either *Legitimate* or *Illegitimate*. The *Civil* only is *Adoptive*.

The most proper and agreeable coherence is without doubt the *Natural*, in which our very Essence seems in the Currant of succession transferred to Eternity, without which, Mans successful endeavors (though Crown'd with opulence and Honor,) yield in their fullest Affluence but an imperfect satisfaction, their charming Harmony still grating the affected Heart, with the good Patriarchs interjected Discord. *Quid mihi*. That the illegitimate Dependence, though naturally constituted, should reach so high a consequence, can scarcely be affirmed. Since Infamy and Infidelity associate the Production.

It will therefore be materially pertinent to our Order fully to appropriate unto either their Distinctions. *Children* intitled with Adherence of *Legitimacy*, may such be figured either *properly* or *improperly*.

Properly, such, as after due solemnity of their Nuptial Rites, are in due season and maturety of time produc'd.

Improperly, such as before Terme, under Terme, or after Terme of *Conjugal* Institution, untimely are produc'd.

The Two *First* Distinctions the Civil Law admitteth to a priviledge of *Legitimacy*, and sometime the *Latter*, when confirmed by some Accident, that Nature was disturbed in her usual course. Our Laws more Rationally, exclude them all from such capacity: Insomuch, as the succession of Families, (in regard

regard of their Possessions) ought to be preserv'd, so regularly pure, as not to become subject to the blemish of a visible suggestion.

The *Illegitimate* coherence of *Children* may also bear the same distinction, being such either *Properly* or *Improperly*.

Properly, such as without Reference either to Preceeding or Succeeding contract, at any time are produced.

Improperly, such, as with Reference either to Preceeding, or Succeeding contract, or unto both, untimely are produced.

The *Latter* Distinction of Illegitimacy may sometime plausibly (in reference to many circumstances in the Transaction) by especial Grace of Prince or People, be admitted to a capacity of *Legitimacy*. The former regularly and without *Opproby* never.

To these Distinctions of Filial Inherency, may properly be annexed that of our *Adoption*. A *Custome* very frequent among the *Romans*, where Vertue being esteem'd the highest Dignity, became invested with adherence of the highest Relation, on the immediate extinction of a Family but to support their Name.

How farr the Agreement should extend to form the Institution regular, may probably frame an Argument material in Discussion. Besides the Principles both *Pater & Patria* are concerned in the Agitation, nor can either justly be excluded in consent to the Transaction. The *Parenty* in respect, a Member thus becomes defected from the Family; The *Civil Society*, in regard no alteration of Order in so Essential a Distinction can justly be admitted in the *Civil* Frame, without a publique Act, so that we may hereby conclude the Inherence to his Property must pass under the Title of *Donation*.

Whither the Paternal Inherencies, as *Lands*, *Goods*, *Honours*, &c. may justly be transferred with the Person to another Family, is a *Subject* materially considerable, and may possibly without opposition pass in the Negative; insomuch as the common Affluence tending to support but one peculiar *Stock*, becomes enfeebled, when diverted to the enlargement of another.

3. *Servants* in Reference to their Use and Nature, have a vast extent in their Distinction, as *Bond-servants* and *Free-servants*, *Domestiques* and *Retainers*, *Fealists* and *Facultists*.

Bond-servants are distinguished in the Perpetuity of their Servitude, terminating only with their Owners special Grace in a publique Enfranchisement, or by the Common Law of Nature.

Of *These* there are sundry sorts of *Acquisition*, The Primitive and most Antick, was, questionless, the chance of War,

which inevitable Thraldom to the vanquiſhed, was probably the higheſt and the juſteſt Motive to a generous oppoſiition. The hope of future enlargement, tending but to unnerve the Reſolution. But Man contracting ſtill corruption with the Time, formed hereto another *ſpecies* of *Acquiſition*, the victor not contented with the uſe and Glory of *Theſe* living *Trophies* to his valour, made them the *Subject* of his Avarice in a ſordid Traffique. 3. To *Theſe* two kinds of *Acquiſition* ſucceeds a *Third*, not altogether properly ſo term'd, in reſpect it ſeems framed on a volunntary Conceſſion, where the *Bondman* attaining by publique Ordinance: the privilege of Enfranchiſement, prefers his Bondage 'fore his Liberty, not accepting the Permiſſion, whereon *the Maſter nailing his Ear to the Poſt of the Houſe, became entitled to his uſe for ever.* Yet may this probably be judged an *Acquiſition* of Benignity, which in his former Bondage had ſo engratiated the ſervant, he could not hope to improve in future his Condition.

4. From theſe Diſtinctions of *Acquiſition* may poſſibly proceed a *Fo*[illegible] more juſt and abſolute then all the other, when in a lawful propagation, they are multipli'd, where the enthralled Infant receiving his Elevement in the Family by his Maſters care, more ſenſibly accepts him for his Father, of ſuch were fo:m'd the good old Patriarchs Families.

Whether the Authority of the Lord over his *Bondman*, juſtly might extend to Life and Death, is an Argument may properly be here reflected on. The practice of moſt *Commonwealths* in which this ſort of ſervitude was formerly in uſe, affirms it regular. To which the ſacred Letter not much diſſents, preſcribing to the term of an accidental Diſpenſation, but the extent of three days from the Fact unto *his* expiration, rather as a Reſtraint to Inhumanity then a rule of Equity, as appears by the ſequel, *for he was his Money*, which ſeems to acquit him from a voluntary Act, in reference to his own Intereſt. The weight of *This* Propoſition chiefly depends upon the *Bondmans* adherence to the *Civil frame*, to which admitting him a Member, he juſtly then may claim a priviledge of ſecurity from the *Civil* Rule, if not admitted ſuch, he muſt at leaſt be yet allow'd to be a *Civil* Property inherent to the *Publique* benefit, which no way can be wilfully deſtroy'd, without a common prejudice, ſo that if the Fact prove not a criminel Delinquence, it of neceſſity muſt be adjudged a publique Treſpaſs; which concluſion alſo will meet a farther impropriety in Rule, ſince every *Bondmans* life extinguiſhed by any hand, can onely paſs the cenſure of his Price, nor falls it equaly within a *Civil* Reparation, if the Agent be of equal incapacity, ſo that ſuch a Liberty may poſſibly extend to a prepoſterous diſ-

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order in the publique Peace. To take away the cruelty of the Masters, redounding often to the publick prejudice. *Antoniac commanded they should be sold to others, not barbarously Treated by their Owners.*

Bodin concludes our Customary forms of Apprentisage under this Distinction, though but improperly, in Respect, there is *herein* a voluntary and conditional Ingress and Egress of Contract: All which Parts of progression are utterly inconsistent with the proper Nature of a *Bondage*.

Free Servants are by voluntary and mutual Contract under the subjection only of a Temporary Servitude: and may such properly be qualified from the voluntary Initiation of *This* Servitude, which limited by prescription of a Covenant, renders to them a voluntary capacity of enlargement, of which there are divers kinds, either in Reference to their Terms of Servitude, as Septennal, Annual, Mensal or Journal, or in Respect of their Abode, as *Domesticks* or *Retainers*. These sort of *Servants* in their simple Nature, without a Reference to peculiar Covenant, are properly inherent only to the title of an *Acquisition*, in Respect the agreement is usually raised only on a personal adherence, which Ceasing by decease of either Party, the efficacy of the Contract must of necessity be void; though custom possibly may lend *It* other priviledge.

Feodists are such, who by the Tenor of a real Possession, owe personal Service or Vassalage to the peculiar Lord, and might not altogether improperly be reduced to the Distinction of a Bondage. A *Species* of Assubjection not without due consideration dissected from our *Civil* Sufferance by publick Ordinance: Insomuch as *It* hath heretofore been found a visible fomenter to our *Civil* Broils, and hath now only left a shadow Thereof in our Court Suits and Services. *These* sort of Dependents fall under a Capacity of every Title to a *Civil* Property, whether *Acquisitive*, *Donative*, or *Successive*, being usually inherent to the possession of the Royalty.

Faculists have their subjection formed voluntary, by a mutual Contract, in Reference only to the *Civil* Function, under Limitation of a term expreſt; which being expir'd, they legally may challenge their Infranchisement to the publick Profession of their Art, and may properly be comprised under the Distinction of *Free Servants*. Freedom preceeding the Election, and Freedom succeeding the Intention, as the Object of their Servitude. In the common usage of this inherent, Custom hath form'd an Impropriety not equitably allowable. That any one, not yet, by *Civil* Rule, admitted to the Capacity of Fruition of his own Property, should be permitted to dispose of his own Person. 'Tis true, the Parents frequently are supervisors

to the Contract, but yet therein no real Agitators, nor yet where their assent is not so evident, doth any Civil Rule afford a priviledge to the Retraction of the Covenant.

4. *Offices* in Reference to a *Civil* Property, are formed only to the *Publick* use: Nor, can plausibly be either admitted *Acquisitive* or *Successive*. Not *Acquisitive* insomuch as such an Introduction doth figure a pretence unto unequal purposes, and lends a colour to the corrupt execution of his Trust. Lucre being the common object of a venal Commerce, furthermore so improper a Reception detracteth from the Worth and Dignity of the Ministers, who should lend weight and Grace to the prescription of his Charge: under the license use of such custom, improper Agents are admitted to the managing of Important Agitations, not leaving the Institutor a priviledge of Election, while worth and vertue not stooping to so abject a procedure, become excluded the Capacity of a Civil Negotiation, Their proper and peculiar Sphere to lend true Lustre to their Nature. Such Imployments therefore might more happily be reserved to the Immediate Dispensation of a Prince or People, to recompence and dignifie approved Vertue in a plausible Distinction; and gratifie especial Services, without exhausting of the common Treasury. Whether this Mercinary Commerce fall under the practice of a Prince, his more peculiar or more general Ministers. The Inconvenients not differ much in Nature, only the Improvement of a Princes Treasure (though with impeachment to his Honour) may to a vulgar Inspection seem possibly to conduce more to the *Publick* Benefit: Yet the material Influence of either well distinguished, in Reference to the *Publick* Good. The Dignity, Vertue, and Benignity of a Prince, clearly o're ballanceth such sordid Consequents!

Not *Successive*, For then the Impropriety of the Agent to the Action were irreparable; and the *Civil* Frame must sometime of necessity sinck under the Insufficience or Corruption of engrafted Ministers. Furthermore the progression of Vertue to a *Civil* use, would utterly be obstructed, were the transactions of her Ministry only inherent to the Natural Order. And the Influence of a Princes Grace not materially communicable, the Subject should dispence the same, removed from his proper Art.

Lands and *Houses* have one and the same Distinction in Possession, being either *Real*, or *Personal*. And though the *Latter* Inherence may seem to issue from the *Former*, yet without doubt the *Latter* had first the preheminence in use; as appears in the primitive and unstable abode of our Fore-fathers, before the Sword had yet establisht a distinct property, which

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in process of time having reduced many Families of nigheſt Alliance to one *Civil* Subjection, aſſumed, according to the Capacity of their Powers, ſuch a Proportion of the earth, as might preſerve their lives with Pleaſure and Tranquility. And to avoid the Incurſion of their Borderers, erected ſuch Receipts for their Aſſemblies, as might make Oppoſition to Invaſion: In which, that every one might equally be concern'd, their precincts to each Owner was preſcribed by common Divident, under the Tenor of the Inſtitution, to whoſe Juriſdiction they became ſubordinate by a mutual Intereſt: So that we may conclude the *Tenor* of each *Real* Poſſeſſion, is primitively inherent to the *Prince* or *State* preſideth the *Society* under the form of a *Donation*, with ſuch Reſerves of Intereſt therein, as might ſupport the Inveſture of ſuch Dignity. In Reference to ſuch Conſequence might probably become inſtituted the firſt Title of Inherency, as *Feofs en taile*, where the nigheſt male ſucceeds to the Poſſeſſion.

Subſequent to *Feofs en taile*, are *Feofs ſimple*, where the *Real* Poſſeſſion deſcendeth to the Heirs General, under which Title Cuſtom admitteth the *Primogenitor* alſo to ſucceed to the Succeſſion, reſting only this Difference betwixt *This* and the former Title of Inherence, that herein the Poſſeſſor hath a capacity to diſpoſe of his Poſſeſſion, in preſent or future, where and how he pleaſeth; *in* the *Former* neither, being but Tenant for Life, and the next Male, lineally deſcended, muſt, though againſt his liking, become inveſted in the Right of his Succeſſion.

Another Title of Inherence to a Real Poſſeſſion, is *Feof en Farme*; A Title uſually iſſuing from the Conceſſion of a Prince, where the Poſſeſſion is tranſacted to a lineal Adherence, under the Reſervation of a certain Rent.

Theſe Titles of Inherence have alſo Reference to certain *Tenors*, and are either held in Capite, Soccage, Knight-Service, *&c.* But why ſuch Diſtinction of Tenors ſhould remain, where the perſonal Engagements are diſſolved, may prove an Argument to a farther Inquiſition: beſides theſe general *Tenors*, there are alſo with us, cuſtomary or particular *Tenors*, as *Gavil kinde*, where every Party equal in Proximity, is admitted to an equal partage in the poſſeſſion, *borrow Engliſh* where the youngeſt only.

Perſonal Poſſeſſions are ſuch, as by mutual Contract of Parties are conſigned under certain Covenants, and for certain tearm, either by *Copy*, or *Leaſe*; though the *former* Title may ſeem under cuſtomary Priviledge to challenge a ſucceſſion of Right: Yet ſince the Condition of the *Copy* bearing a Perſonal Preſcription, and falling under a Capaci-

pacity of Retraction, may become void and divided from the Right of a Succeſſion, without any voluntary Act or Surrender, it properly may fall under this Diſtinction.

Every *Real* Poſſeſſion being originally derived from the *Civil* Inſtitutor, whether his Inveſture therein were conſtituted by Agreement, or the Sword. Under the Title of *Donation* extended to a ſpecial, or a general Succeſſion, ought equitably to be ſerv'd by *Civil* Ordinance in ſuch adherence to a perpetuity; ſuch was the Conſtitution of the *Judaick* Poſſeſſions in their primitive Dividents, which could not be alienated from the Family or Succeſſion, but till the enſuing *Jubile*, nor ſo paſſed from the next Succeſſor, unleſs he had refuſed to accept the Sale. A plauſible Inſtitution to preſerve agreeing *Simitry* in each Part of the *Civil* Structure, ſend bounds to inſatiate Avarice, and ſuccor to the Indigent. The *Latter* part of the Inſtitution remaineth ſtill in Force under the Texture of the *Civil* Law. The higheſt in Relation, under Preſcription of time, retaining a Capacity of Redemption. But the Corruption of Humane Nature ſtill findes evaſion to fruſtrate the Intent of any Ordinance eſtabliſht to the publick Benefit, uſually diſguiſing the Nature of the Sail, under the colour of exchange, though the pretence be never ſo unequally deſigned. That it may juſtly in this, as in many others, become a wonder to a rational Inſpection. Why *Civil* Societies ſo exactly conſult, and ſo long deliberate on the Eſtabliſhment of *Their* Decrees: yet ſuffer the Intent thereof, to become violated, mock't and cheated by adulterate Practiſes.

No Title can truly impower the owner to paſs the Poſſeſſion of a *Real* Eſtate, equitably by *Donation* or *Deed*, but that of *Acquiſition*, unleſs the Poſſeſſion iſſue from a ſimple *Donation*, without reference to Succeſſion; which then according to the Letter muſt terminate in his, to whom it is Tranſacted. In which caſe, if feaſable, a *Donation* might fall under the Nature of an *Acquiſition*: In all other Reſpects the ſucceſſors have a juſt Title of Inherence to the poſſeſſion, and can no way be alienated without Injury, till the ſucceſſion fail. The Induſtry of the Predeceſſors having equally for Object the common Intereſt of the Family.

A *Real Acquiſition* is a Priviledge inherent only to the *Natives*, *Aliens* being generally excluded from the Capacity of a Real Poſſeſſion under what Title ſoever, leſt the ſubſtance Inherent to a *Civil Society*, ſhould be transferred to a forreign uſe.

Real Acquiſitions are not without Reaſon limited in ſome *Societies* by *Civil* Ordinance, eſpecially falling under uſage of a Commulty; where the poſſeſſion finding no Iſſue by ſucceſſion,

sion, might possibly in process of time swell to so unequal a proportion, as might not be consistant with the *Publick* Interest. To form the *Acquisition* legal, the *Civil* Law exacts the consideration be in a certain measure valuable, else becomes void in the Transaction.

Real Possessions admitted general in *Succession*, are properly not subject to a Distinction in Sex.

Chattels or *Moveables* hold a vast extent in the Definition of their Nature, which may nevertheless be reduced to one *Species*, under the Distinction of Money, the Common Receptacle to all the Rest. In this Property we justly may become intitled from any hand by way of *Donation*, since no inherence can be constituted on so moveable and uncertain a Commodity, though Nature seem to claim the first Direction, and her order thereto the Progression: yet being the fruit of Industry or Parcimony, the Possessor denying himself the use thereof, may justly be allowed his Inclination in the Fruition of another, how remote soever. But the most plausible Title to the Possession of this *Property*, is a just and regular *Acquisition*. The first and least subject to Corruption is the *Manual*, next the *Official*, last the *Venal*. Of the *Venal* the forreign. Of the *Official* the voluntary. Of the *Manual* the most necessary, from which principles issue all the Branches of a *Civil* Commerce.

This *Property* also falls sometime under the Title of *Successsion*, when the Possessor dyes Intestate. But why the right of Administration should be so constituted in one Principle, by the *Civil* Law, contrary to her proper Order, as to exclude others equal in Descent, from equal Divident, may become a Caution not unworthy a Publick Reflection, though the error seems cast on the untimely Advertisement of the pretenders. Or why as some affirm, the Female Line should be preferr'd before the Masculine, without Infringement to the *Civil* Order. The procedure admitting of no other Rule then what might blemish her own Institution, inclining rather to the certainty of Nature, then the Authority of her own Prescription.

XXXIX. *The security of our Civil Property.*

THE security of our *Civil Property* (without Contradiction) consisteth totally under the Tuition of the Law, But such is the frailty of our Condition, that we pervert the very Nature and Intention of all things that fall under our depraved usage, whether *Civil*, *Natural*, or *Divine*, though never so happily constituted to our Benefit. A more visible Proof whereof cannot be instanced, then what we may extract

from the Constitution and Issue of all humane Laws, though never so exactly constituted, being ordained for the Peace and Preservation of the whole Frame of *Civil Union*, are universally the highest fomenter of Division, and the most destructive Burden that any way imaginable can happen to *It*; insomuch, as all other Calamities and Inconvenients of what kinde soever have their peculiar Seasons, Relaxes, and Intermissions. But this inevitable poison, under the colour of a common Aliment, is distributed, ev'n to the smallest Vessels of the *Civil* Structure. It will therefore be very material (more successfully to approach the general Nature of the Object of our Treatise) to search into the ground of so unhappy a Consequence, which probably may be disclosed in the Reflection of these Particulars. 1. *The mutual Disaffection of the People.* 2. *The Damage that attends on the Issue and Pursuit of a Civil Decision.* Though possibly might hereto be infer'd divers other more immediate Circumstances, which frequently pervert the Institution of the Law: as, 1. *The Improper Constitution of Courts of Judicature.* 2. *Their Error in Practice.* 3. *The Corruption of their Practitioners:* 4. *The Impropriety of the Law.* Yet nevertheless, since the two former causes removed, will inevitably frustrate all Inconvenience might arise from any such Disorder, we only will insist on their Discussion.

1. *The mutual Disaffection of the People*, without Question lendeth the first Combustable Matter to a *Civil* Dissention, and may properly be tearmed the Tinder of Debate; which catching fire on every slight Emotion, prompts the heady will to snatch at every slight occasion, that may Minister to the Distemper, and to justifie the Resentment; though never so irregular, and warrant the satisfaction, though never so destructive; most fly unto the Law, which both in the Procedure and Issue, leaving fresh Matter to more violent Debates, instead of a peaceable Decision, multiply an imperuous Division: On which inevitable Consequence of humane Infirmity, the exactest Legislators maturely reflecting, have endeavour'd to erect the structure of their *Civil* Society, chiefly on the Baiz of a mutual Unity, Concinity, and Agreement of the Parts thereof, utterly removing all *Obstacles* might therein visibly obstruct their happy enterprise; and imploying all the *Ayds* imaginable, might either through Use or Advantage, Form in them the perfect'st Habit of Affection, more strictly regarding in their Transactions the Rights of Amity, then of Justice; as may, in Reference to the first part of the Assertion, appear in *Licurgus*, *Taking away the use of Money from among the Lacedemonians*, Numas *equal Division of the Lands* Inherent to the Jurisdiction among the *Romans*. In proof of the sequel aforesaid,

said, may be instanced *The strict* * *Association of their Communities*. Every one, if able, was enjoyned under Penalty to repair unto the publick Intercourse of their Associates, for their refection, under this Limitation, that on those dayes design'd for Hunting, his Absence was permitted, conditionally, The whole Society might participate with him of the success of his Industry: the Residue was licenc't to his private usage and his Families. According to this Rule was form'd the Association of the *Essans*, a Sect among the *Jews*, whose happy condition did far transcend the Pharisee, or Sadduce: Insomuch, as under their inherence, none fail'd of his security, depending wholly on the mutual succor of the whole *Society*, whose joynt Interest was engaged both to the timely, and the due support of every Member of their *Civil* Frame. In relation to this Model were reduced the *Centuries* into *Maniples*, and *Chambriers*, In the *Military* Order among the *Romans*, by so nigh an Association to linck them in a stricter Union for their mutual Succor and Defence, and for encouragement to this their Coligation, to institute a publick Triumph to him in Particular, that had secured his Associate from the Enemy. Nor is the cautious Distinction of their *Tribes*, among the *Jews*, so nicely passed on Record, established on any other Purpose or Intention, then to oblige them to an Inseparable Conjunction in their fellowship for their joynt security. Our common Distinctions of Consanguinity, Alliance and Affinity, but spurious Emblems are of our Relations, in Reference to the proper use, and primitive Institution, being only kept alive by Record or Tradition, for the Advantage only of Particulars, not for the mutual Benefit of the joynt Inherency, which are no otherwayes therein concern'd, then as remote Collaterals, in future possibility, not in present Act; from whence ariseth Controversie, Dissention, and Debate: Batteries rather for mutual Ruine and Destruction, then *Cytadels* for their common preservation; whose effects are more obvious and deplorable, in that they frequently are distinguish in the Transactions of the nighest Reference to a *Natural Union*: On whose Composure the *Civil* but pretends to raise her perfect Structure and Establishment: So that the Reflection of the Consequence justly may beget Astonishment in a digested sence, how it is possible the *Civil* Jurisdiction should resent the violation thereof, with so much Indifferency, since her Rights are to Natures but subordinate. Nor yet is our *Position* only fram'd on *Civil* or on *Moral* Practises, our *perfect'st Guide* hath lent it a more eminent Distinction, affirming, *Love to be the fulfilling of the Law*. And how that *Law* should meet a happy Constitution, which pursueth not in *Her* Prescriptions the Object of *Her* Execution, is questionless in *Civil* Rules a visible Incongruity,

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gruity, whether it be in the Imperfection of *Her Nature*, or Impropriety of *Her Order*. Whether in the Coruption of *Her Miniſters*, or *Error in their Practice*, whereby the Members of a *Civil* Union may either be o're-powred, or enſnared in a *Civil* Tranſaction, leſt any Grievance or Oppreſſion hapning under ſuch a procedure, might inſtigate the ſufferers (judging the Nature *Thereof* by the Conſequents) utterly to deſert thoſe *Principles*, whereon the *Civil* Fabrick chiefly was erected, and follow ſtrange Chimero's of their own Invention, ſo form in their Diviſion, ſuch a Rupture in our *Common Union*, as poſſibly may extend to the ſubverſion of the *Civil* Frame.

From the Reſult of this our preſent Argument, will neceſſarily enſue a due Perpenſation of the next *Collateral Impediment* to the Intention, Propriety, and uſe of the Law. The firſt Notion being the common Clauſe of a *Civil* Diviſion, the ſecond of a Relapſe; In Regard that the *Dammage* and *Diſparagement attendeth on the Procedure and Iſſue of the Law*, produceth in the reſentment of the Agitators new paſſion for Revenge on any frivolous Pretence, which frequently are purſued and continued till both the Parties thereby become ruin'd with their Families. To remove this unhaypy Conſequence from the Proceeding of the Law, whoſe proper Object only is, *Suum cuique reddere & conſervare*. It will be highly requiſite to the Propriety of a *Civil* Inſtitution, in Reference to a Plea, that neither in the Iſſue or Perſuit *thereof* be left remaining either ſting or ſcar between the Agitators, which uſually are therein enduced, either by *Perſonal Diſparagement, Indignity or Diſgrace. Or Dammage in Coſt or Delay. Or Burden of the Penalty*. The former and the latter inconvenients may eaſily be rectified in a *Plauſible Summons* only, and a *feiſable Reparation*. The ſecond not without Difficulry, in Reſpect the inevitable charge, which attendeth the Proſecution of a Plea, is not any other way diſtinguiſhable to be avoided, It ſeeming altogether Impoſſible, that ſo numerous a multitude ſhould daily wait on the Proceeding of our *Civil* Agitation without any Advantage, more then the Demerit of the Action. In Reference to the Aſſertion, we may affirm, that there can not be a more honourable or ſatisfactory Imployment deſigned to any Perſon, whoſe fortune ſhall afford him vacancy from the urgency of his own Affairs, inherent to the neceſſity of his own ſubſiſtence, then to lend a voluntary aſſiſtance to ſo important a Miniſtry, according to the Capacity and Number of his Aſſociates: Such was the procedure of thoſe ancient Heroes, whoſe Vertue only lent a more ſplendid Luſtre to the Dignity of their Countrey, then all the Glory of their Victories. In Reference to which pattern he conform'd his practice, whoſe vertue juſtly had entitled him with the Denomination of

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her Eſſence, * *Cato*, daily repairing from one Court of Judicature to Another, to plead without Pretence of Gratuity, the Cauſes of the Indigent and oppreſt, till he was (of a ſtranger and obſcure Extraction) held worthy to become admitted to the higheſt * Miniſtry.

* *Sen.*

* Cenſor.

But admit the parallel (in favour of our Infirmity) more proper for our ſpeculation, then our Imitation; might not Courts of Judicature be conſtituted in every County at the *Publick Charge*, allowing a ſufficient entertainment annually to ſuch a Number of Officiates, as might be fit to mannage the Affairs Co-incident to the Bounds of each peculiar Juriſdiction, whoſe Number being reduced into ſeveral Diviſions, might alternately officiate ev'ry Moneth; ſo that the daily Agitation of the Court yielding a ſpeedy Iſſue to their Pleas, they rarely could become o're-burdened in their Functions, either to their own Inconvenience, or anothers Prejudice: eſpecially if no Action were admitted pleadable, which had not paſſed the Allowance of a peculiar Arbitrator, who might be ſo impower'd as to compoſe a multitude of Frivolous Debates, which uſually do but multiply one another to the Diſturbance of the common Peace, and the Dammage and Deſtruction of the Agitators.

In oppoſition to which Order may probably be alledg'd, that the inevitable Charge attendeth on the Iſſue of the Law, cannot poſſibly encounter a more juſt and proper Impoſition, then that the Burden of the Agitation ſhould fall upon the Injurer. The Objection may paſs as an irrefutable Poſition, provided the Concluſion fall under the Reſtriction of *a clear Capacity to diſtinguiſh*, and *a full Ability to perform*.

But where the ſence of the Law is involv'd with ſuch Obſcurity and Myſtery, as no cauſe, how bad ſoever, doth not only finde authentick Promoters to encourage the undertaking, but as impudent Advocates to maintain the Proſecution under a legal formality of Right: And where the inveterate Malice of Man is univerſally ſo great, on every ſlight Advantage to purſue the Oppoſers of his will to ſuch extreams, as utterly might ruine and deſtroy them. It plauſibly may be allowed very pertinent to the Eſtabliſhment of a *Civil* Welfare, that the Legiſlators ſhould reflect on a more happy Conſtitution of Judicature, then what muſt of neceſſity thus caſt their joynt Aſſociates into their hands would ſell them to the Inemnity and Rage of one Another, in perſuit only of their ſordid Lucre.

XXXIX. *The Principle* Subjects *fall under Regulation of the* Law, *in Reference to the* Security *of our* Civil *Property.*

HAving placed the *Security* of our *Civil* Property under the due preſcription and Execution of the *Law*, it will be neceſſary to the exact Eſtabliſhment of her work, that we briefly lay forth thoſe accidents which in the infringement of a *Civil* Intereſt, may lend an oppoſition to her Enterpriſe, which viſibly may be compriſed under theſe Diſtinctions, *Fraud*, *Violence*, *Injury*, *Oppreſſion*, *Fire*, *Inundation*, *Exceſs*.

XL. *Of Fraud.*

WHen we ſhall with due Perpenſation reflect on the extent of this *Principle*, in Reference to a *Civil* Tranſaction, It juſtly may produce a wonder in the ſhalloweſt Apprehenſion, that the Conſtitution of moſt Laws, in general, ſo remiſly weigh the Conſequence *Hereof*, as to caſt the Deciſion in the common Ballance of a caſual Treſpaſs: under which indulgence probably the Practice *Hereof* hath ſpread It ſelf into the moſt honourable Profeſſions, and the higheſt Relations, not only as an Act of Frailty, but as a plauſible Habit in ſufficiency, inherent to the Myſtery of every mans Function in a *Civil* uſe: ſo that we might in Reaſon rather tearm ſome *Civil Societies* Artificial Pieces of diſguiſed Impoſture, then Eſſential or Agreeing *Communities*: In which Regard we will endeavour to diſcover the *Nature*, *Prejudice*, and *Regulation Hereof* moſt pertinent to a *Civil* welfare.

The Nature *Hereof* is queſtionleſs a Breach of *Truſt*. Fraud only conſiſting in Reference to a *Truſt*: ſo that we may conclude the *Civil Prejudice*, that enſues the Practice, may reach as vaſt a Latitude, as the Benefit of a *Truſt* can properly extend to in a *Civil* uſage: In which ballance we will caſt the weight of our enſuing Argument, to lend us a more clear Inſpection to guide us in the due *Regulation* of our preſent *Subject*.

Truſt is viſibly the *Band of Common Union*, or the *Principle conduct of a Civil Commerce*; through which the nouriſhment of every Faculty therein becomes conveyed to the ſmalleſt and remoteſt Veſſels of the *Civil* Frame, which received, as a regular Poſition, we may clearly from thence Collect how highly material It muſt be to the Improvement of a *Civil* Welfare to ſecure *Truſt* from all manner of *Fraud* whatever, that it may be preſerv'd

ſerv'd, ſo far as poſſibly we may, in a clear and inſubvertible Purity.

In perſuit whereof, we muſt firſt diſtinguiſh the Nature of a Truſt e're we can reach our Intention, plac't in the extent of the uſe.

In Reference to which Order, *Truſt* is a free Act of the will to impart any thing in our Poſſeſſion to anothers, under the Limit of a Retribution, either ſimply for the Intereſt of the *Truſtor*, or ſoly for the Benefit of the *Truſtee*, or generally for the mutual and common Advantage of either, or particularly for the uſe of neither; but to the uſe and Benefit of ſome other or others ſpecified in the *Truſt*.

From which Diſtinction, in Reference to the Act, we may obſerve two Circumſtances in manner of the *Truſt* to eſtabliſh it Authentick. Firſt, That it be an Act of the *Truſtor*'s free will, not enforc't on him by Violence, Urgency, Neceſſity, or any ſuch Advantage on the Inclination of the will. Secondly, That whatever is tranſacted in the *Truſt* be really without engagement in the clear Poſſeſſion of the *Truſtor*, as his unqueſtionable Property: otherwiſe, that Truſt can prove but an imperfect *Truſt*, which is but raiſed on the Breach of *Truſt* unto another, who may more juſtly claim an Intereſt in the property.

The Object of the Definition extends It ſelf to four Branches, the *two firſt*, and *the laſt*, have ſoly Reference to a *Common Unity*, the *Penultimate* only to a *Civil Commerce*. The *firſt* may reach a Caſual or Impulſive Breach to render It rationally unactionable. The *ſecond*, but with Difficulty may be admitted to ſuch Priviledge. The *two latter* never fall under that Capacity. In Regard the *firſt* Branch of *Truſt* hath only Reference to the Intereſt of the *Truſtor*. The *Truſtee* only accepting of the trouble inherent to the Truſt, as an Office of Amity, which is perfectly diſcharged in his endeavour to effect it, but not reaching the intention of either by caſual or impulſive Accident; the Dammage of neceſſity unjuſtly is impoſed upon him.

The *ſecond* Branch of *Truſt*, where the *Truſtee* only reaps the Advantage of the *Truſt*, meeteth ſome ſcruple in the Diſpenſation of a *Civil* Procedure, on Caſual or Impulſive Breaches of a *Truſt*, inaſmuch as the *Truſtor* pretendeth to no benefit in the *Truſt*. But poſſibly to his own Inconvenience, or other Diſadvantage, for a ſeaſon, hath reſigned the uſe Thereof unto the Benefit and Advantage only of the *Truſtee*: So that in Reference to the Priviledge aforeſaid, on Caſual or Impulſive Breaches of Truſt, We only can, in *Civil* Rules, lay the ground of the *Truſtees* Plea, upon a Right alone unto the *Truſtors* Benignity, rather then in the inefficacy of the *Truſt*, or the Inca-

Incapacity of the *Truſtee*. It appearing a high Impropriety in *Civil* Rule to proſecute an Act of Retribution to the Dammage or Deſtruction of him to whoſe Improvement or Preſervation It only was directed; and where the ſuccor was friendly diſpenſed, the Advantage Caſually failing, a Reparation ſeems maliciouſly exacted. But, as the *Truſtee*, to whoſe uſe only the truſt was intended, may ſeem too favourably admitted to the Exception of a *Civil* Procedure on Caſual or Impulſive Breach of *Truſt*; ſo the voluntary or Perverſe Breaches of *truſt* intended only to the Advantage of the *Truſtee*, may ſeem but too remiſſly Cenſured in a Bare Reparation of the *truſt*: inſomuch, as Pain for Profit muſt yet make the Return but too unequally Ballanced in a due Compenſation of Right, which far more juſtly might extend to the Advantage, was thereby acquired, as a Retraction of the Intention of the *truſt* ſo infamouſly infringed.

The *third* Branch of *truſt*, which tendeth to the mutual Benefit of the Tranſactors, is excluded ſuch Capacity; inſomuch as the *truſt* is formed under a Conditional Contract, in purſuit of a common Lucre, where either runs the hazzard of the Adventure by his proper Act, in Reference only to their own Advantages; ſo that the *truſt* infringed, the *Truſtee* voluntarily caſts himſelf on the penalty of his Covenant.

The *latter* Branch of *truſt*, which requireth only the Circumſpection of the *Truſtee* to the ſpecifick uſe of others privately or publickly concerned in the *truſt*, can pretend to no *Civil* Incapacity to free him from a Legal Proſecution, in reference to a Breach of *truſt*, in that it reſts wholly in the Election of the *truſtee*, to accept or renounce the *truſt*, to ſeparate the Inherents of the *truſt* from his own property, or alter or tranſact them as his own: ſo that nothing being exacted from the *truſtee*, in execution of his *truſt*, but his own will, It ſoly is his will that can infringe it, which tending to ſo material and charitable an uſe, failing only in the Retraction and Remiſneſs of his will, he juſtly may ſuſtain the penalty of his reproachful and injurious Reluctance or Neglect. This *truſt* is uſually a Teſtamentary *truſt*, which accepted, engageth the *truſtee* as his own proper Act, ſo far as the Capacity of the Subject will extend, which may alſo be farther diſtinguiſht in a *publick* or a *private truſt*.

The *Private* ſo conſtituted, have frequently this Default, that they ſeldome reach to the intended uſe, when as directed to the Benefit of Children, who commonly have moſt need thereof; in that their preſent advantage is not only ſuſpended, but the *truſt* alſo many times ſo oft removed, e're they attain a due Capacity to exact it; that either the Inherents to the *truſt* fail,

fail, or the *trust* it self falleth to the Ground, wanting either real or equitable Grounds yet farther to produce it: which defect scarcely will be exactly rectified, but under the tuition of a *Publick* Court, constituted only for the safeguard of such Persons as properly fall under a *Civil Incapacity*.

A *trust* exacted to a *Publick* use, seldom or never reacheth the Intention of the *trustor*, in that the Election is not sufficiently separated from the Interest of the *trustees*, who exercising their *trust*, as if only establisht for the Advantage of their own Relations, mutually assent to the Remonstrance or Interceſſion of one another, in favour of Particulars: whereas every Member of the *Common-wealth*, under the Capacity of the *trust*, ought to have an equal Priviledge in the Benefit *thereof*. And having, without just exception, attested his Capacity in Presentation, should by equal Lot be cast into a visible and orderly Reception with the rest, from thence to be extracted by an impartial hand. Farthermore, in such partial Elections, all Abuses and Breaches of *trust* whatsoever, become utterly smothered by taking away the freedom of Impeachment from those are soly interessed in the *trust*, in a servile Adherence to the patronage of the *trustees*.

To conclude our Discussion of the Nature of our *Subject*, we may pertinently here insert one General Exception against all the former Branches of a *trust*, That none of them be passed under such a form, oblickly constituted for collateral and implicit uses, not expresst in the *trust*: which Procedure may justly be excluded the Suffrage of a *Civil* Jurisdiction, being the common shrouds to the most specious and Considerable *Frauds* in Practice.

As to those Forms of *trust*, passed on Contracts of *Marriage*, they seem improperly constituted in the Hands of a Particular, or Particulars, of how nigh Relation soever; in that every small Occurrent tending to the inconvenience but of some concern'd therein, have commonly sufficient Influence to o'rethrow the *trust*, unto the Prejudice of the Rest, not of Capacity to yield to the Transaction: so that necessity will lend us a Direction to fly to publick safeguard for Redress; where such Acts becoming totally irrevocable, they may infallibly attain the proper use to which they were directed.

Under which Notion may likewise be comprised *Guardiant trusts*, either Testamentary, Successive, or Elective; which having for Object only the Benefit of such as are not under a capacity to act either judiciously, or freely for their own Advantages, in respect of their *Civil* Incapacity, or else the strict subordinacy to a nigh Relation. Their Interests (in reference to

many Inconvenients may thereon enſue) might more ſucceſſfully be managed under the publick Tutelage.

Having thus far generally diſcuſſed on the Nature of our *Subject*, we will proceed to agitate on the uſe *thereof* in ſome Particulars; in the Introduction whereof we incounter ſome difficulty, both in Reference to our Order, and Importance in our matter; which is, whether the *Natural* or *Civil* Relation ought firſt to be admitted to a Precedency in *truſt*? The Queſtion may at the firſt Inſpection appear of little Ambiguity, and as little moment, one only exception but reſerv'd: inſomuch, as we have formerly inſerted, that the *Civil* Frame is only form'd from the connexion and concinety of the Natural: yet when the Diſſolution of the *Former* may be threatned in the Preſervation of the *Latter*. We muſt affirm it much juſter, that one criminel periſh in the Infringement of a *natural* Law, then that many innocents ſhould be deſtroyed by the diſpenſation of a *Civil* Ordinance: As in matter of Treaſon, where in every Act of unviolated *truſt*, the *Truſtee* becomes an Acceſſary to the Treaſon, In which Reſpect, the Tranſaction falling between the Father and the Son, the Son may probably claim Advantage from the ſame Law of *Nature* to warrant his Diſcovery, as the Father might exact to enjoyn Concealment. *Quiſque ſibi Proximus*. Yet the Romans held ſuch Primitive Inherencies in ſo great Reverence, that they diſpenced with all *Civil* Tyes in favour of their Rights. A Slave might without Impeachment conceal his detected Maſter, much rather a Wife, a Childe might be admitted to ſuch a Priviledge; though the caſe poſſibly may require a more exact Diſtinction; ſince after detection: the Attempt falls under a Capacity of Prevention: And the concealment then tends but to the ſafeguard of the Delinquent, not to the Promoting the Delinquence: From whence we may conclude, that ſuch Relations may, without Impeachment, be licenc't the Protection of the Criminel, provided It reach not a participation of the Crime: which exception in allegiance interjected, we may without farther ſcruple, accept the *Wife* to the firſt and higheſt degree of *truſt*, ſince on her Faith we caſt the Model of our *Oeconomy* for the enlargement of our Fortunes; and in the Affiance of her Fidelity, we tranſfer them to our Succeſſion. In Reference to theſe two Objects of a *Civil* Union, though perhaps unequally Ballanced, the ſevereſt *Societies* of a *Civil* Juriſdiction have paſſed the Infringement of her *truſt* under a Criminel Sentence, ſpecified in the Interdiction of theſe *Principles*, *Adultery*, *Suborning a Childe*, *Drinking Wine*, *Counterfeiting Kayes*. The three firſt take iſſue from one and the ſame Intention, which is the ſecurity of our own ſucceſſion in a lawful Propagation: the *two firſt* really, in

in regard of the Action; The *third* but conjecturally, in regard of scandalous Intention. The last particular reflecteth only on the safeguard of the *Civil* Property, which in such Intringement of *trust* manifestly tending to a fraudulent subversion; the *Civil* Judicature conceiving them to hold one and the same Consequence in the Intent, lent them but one and the same weight in the Punishment; yet with this Limitation, that the execution should pass under the Authority only of the Principal. The *Civil* Jurisdiction, in all Ages, seeming very scrupulous to intervene in the Decision of Differences between Parties so intirely united, that should, in Reason, but enjoy one common Interest; so that if any such permission in a Domestick Transaction were derived from the *Civil* Authority, which might in Reference to the Offence, seem too severe. It might be concluded, that the Trespass was not only obvious, but of a very high Nature, that should enforce a man so to divide Himself ev'n from Himself, where the very sense of Nature was sufficiently effectual to leniate the most rigorous Austerity: In reference to which Conclusion, possibly, *Moses Civil* Institution forbore to judge the weight of a Filial Disobedience to lend it a Criminel Infliction, but commanded, that the Offender should be brought forth by the hand of his Parent; whose Bowels would ev'n in the first Insention, have relented in a natural Endearment, so to expose their own Flesh and Blood to the Fury of the People, had not the offence been altogether held inexpiable, But the Frailty of Humane Nature, in succession of Time contracting new and extravagant Corruptions to the extinction of the Natural Light, whose Motives now becoming not the Object of their *Union*, must not, without Reason, fail in her Resentment, hath justly deprived him of so material a Priviledge, without a Reference to the *Civil* Jurisdiction. The *Civil* Law not so much as admitting him to a capacity unequally to divide his own Goods amongst his Children, without sufficient ground confirm'd by legal Procedure: to which Method of Decision, we will contract our former *Principles*, that we better may conclude on the equity of their Censure.

Adultery can want no other weight to lend it a Criminel Infliction, then the Light of the sacred Institution, and the practice of the *Civil* Law.

To subborn a Childe, must without contradiction, in Respect of the Consequence, reach the highest Nature of a *Felony*, both in the Contriver and the Coadjutor: Insomuch as the Estate, both Personal and Real, unjustly is took from the Natural and immediate Inherents to the succession. As to the *trust* consigned to the *Wife*, which probably might herein alter the Nature of the Trespass; since Breach of *trust* can properly not be exten-

extended to an actual *Felony*: which granted, yet nevertheleſs the *Felony* (not extending to the *Truſter*, both in Reſpect of his *truſt*, and that he yet remains in full Poſſeſſion of his Property) may notwithſtanding be ſo qualified, extending unto others Intereſt, betwixt whom and the *Truſtee*, paſſed no act of *truſt*.

To drink Wine ſeems but a frivolous offence to counterpoiſe ſo rigorous an Impoſition as *their* Death, and probably may be rather judg'd an Inhibition only appropriated to ſome peculiar Cuſtom or Climate, then an eſſential Rule to form a rational concluſion to a General uſe: yet taken univerſally, as extending to a Habit in exceſs. It may be held more then a conjectural circumſtance to the former impeachment, in that (without Reference to the motive thus viſibly fomented in the Practice) A Woman in ſuch Diſorder can make preſence but to a ſlight ſafeguard of her Honour: So that, both in regard of the Scandal and Danger in the conſequence of the uſe, We juſtly may ſuſpend the Treſpaſſor from the capacity of a *Conjugal* Union, the ground being of ſufficient weight to exact a legal Separation.

To counterfeit Keyes, This Interdiction was probably conſtituted under the uſage of *Polygamy*, where the *Wife* was rather eſteemed the purchaſe of their *Property*, then a companion in *Society*: in which ſervile condition of Wedlock, like ſo many ſeveral Factions, every one endeavoured by all means poſſible to enlarge the Fortune of their own Production, and extendeth only to a breach of *truſt* impoſed on the ſafety of our Goods; wherein, according to the Inſtitution of our Law, the *Truſtee* hath an equal Intereſt, although ſequeſtred from her uſe under the Tuition of another: in which Reſpect the *Civil* Judicature reflects not on the Nature of the Fact, but as a private Treſpaſs, and leaves it only to the regulation of the Principle, in whoſe capacity alone It is to ſeparate His Wife from his *Property*, or his *Property* from his *Wife*.

The *Children* can by the priviledge of their Extraction properly be intitled to no inherence of a *Civil truſt* more then the Father ſhall aſſign him by his ſpecial Order, and in the Breach *thereof*, become only liable to ſuch correction, as the Father ſhall impoſe, without a Reference to a *Civil* cenſure: inſomuch, as they have a collateral Right inherent to the property, and ſhould in Reaſon, need no ſtricter tye to the due Execution of their *truſt*, then their proper Intereſt.

Servants fall under the next Adherence to a *truſt*, which may yet more clearly be diſtinguiſhed in an *Expliciti*, and an *Implicit truſt*. The *Implicit truſt* extendeth generally unto the ſafeguard of his Maſters Goods. The *Explicit* lends a more viſible Intima-

Intimation of the Nature of this *truſt*, under the limits of a a conditional Preſcription: ſo that the Infringement of the Implicit *truſt* may properly be tearmed a breach of Contract, though not ſo fully under the Diſtinction of a *Civil* Treſpaſs, as the Explicit is: Yet if the *Truſtee* ſhall under pretence of his General *truſt* appropriate to his peculiar uſe, or otherwiſe alienate the Goods of his Maſter not committed to his charge, the guilt may be extended to a *Criminel* impeachment.

In theſe *Particulars* only is eſtabliſht a *Domeſtick Truſt*, with Reference to a *Civil* Unity. Our order next requires, that we reflect on other forms of *truſt*, which properly may be reduced to a more general uſage, either *Publick* or *Private*.

A Publick truſt is either *General* or *Special*. The General is either *Implicit* or *Explicit*: The *Special* only is Commiſſionary; both are derived from one common *Principle*; *Publick Authority*, and directed to one common *Object*, the *Publick* uſe: So that falling under one common Conſequence in their Nature, they may meet one common Diſtinction in their Infringement. though in Reference to the Subject they handle, ſome have a more material extent of Dammage in their Iſſue then others: every viſible and voluntary Delinquence in a *Publick truſt* extending to a Crime of *leſe Majeſty*, in reſpect, that not only the common welfare or Dammage depend on the Tranſaction: But the Dignity or Honour of a Prince or State become blemiſhed in ſuch miſcarriages, paſſing as his or their own proper Act, either in the Election of their *Miniſters*, or in the order of their *Miniſtry*.

A *General truſt* in *Publick* Intereſt, is what every Member of a *Civil* Capacity, was born to in common Right of his extraction, and may be ſpecifi'd in Acts of his *Allegiance* either *Implicitly*, as a *National Injunction*, or *Explicitly*, as an *Adjur'd Preſcription*. The *former* engageth as a *Civil* duty; the *latter* alſo, as our proper Act. A Treſpaſs againſt the *firſt* order may poſſibly ſeem but to infringe a *Civil* Inſtitution. The *latter* alſo a ſacred Ordinance: The *firſt* may by Act of Grace become reſtored to his Purity. The *latter* juſtly never to be admitted to a *Civil* Capacity.

Special Acts of *Publick truſt*, extending to a *Publick* uſe, may reach a vaſter Latitude. The *National*, *Juſticial*, *Negotiary*, and the *Military*. The two *latter* more properly inherent to the exterior object of our *Miniſter*, we have reſerv'd to their peculiar Order.

The *National truſt* extending to a *Publick* uſe, is the higheſt and moſt material Diſtinction of a *truſt* (implied ſuch under the Licenſe of a free Election) where the people under Commiſſion of the Supream Authority, make a peculiar choice of their

Truſtees to agitate on their common Intereſts, in a *Publick* Convention. How this *truſt* may become viſibly and wilfully impeached in the *truſtee's* proſecution of his *truſt*, is not clearly obvious, where the leſſer Number muſt of neceſſity recede unto the Greater, unleſs it might be imputed to a Remiſſneſs in his Agitation. If any Subject ſhould fall in diſcuſſion, which might poſſibly be repugnant to the peculiar Intereſt of the *truſtors*. The *truſtee* led by Integrity, and Judgement, may, without blemiſh, promote the matter, tending more univerſally to the Advantage of the *Civil* Frame, ſince the whole *Convention* conſiſting of many *truſtees*, can properly form but one Body of *truſt*, whoſe object is not the welfare only of ſome peculiar parts, but of the whole Structure. Neither is the *truſt* tranſigned to the *truſtee* by the People, other then a Collateral *truſt*, whoſe original reſideth in the Supream Authority; to whoſe Councel *they* are ſummon'd to conſult on the welfare of the whole *Frame*. So that the Infringement of *truſt* muſt properly be derived, *Either from the Peculiar Exerciſe of their Office*, or the *General Object of their uſe*, inherent to the Principal *truſtor*, and diffus'd from thence to the Collaterals. The Office is ſoly poſited in Council, not in Rule; to Conſult, not to Determine; to Remonſtrate, not to Conclude; to Apply, not to Exact; to Preſent, not to Enact: All ſuch Impropriеties in the *Publick* Tranſaction of the *truſtee* may properly extend to the infringement of the Publick *truſt*, if ſingularly not cleared in a Publick Atteſtation.

The General Object of their uſe, is in one common Agreement the *Publick Good*; but that *Good* ſometimes not rightly diſtinguiſhed, wanting a due coherence with the Principle, whereas rightly underſtood, the Intereſts of the Prince have ſo nigh a Reference with thoſe of the people, that they are properly but *termini Convertibiles*. The Benefit of the Prince being the Advantage of the People, and the Advantage of the People being the Benefit of the Prince; ſo that of neceſſity, who oppoſeth the one, impaireth the other, and conſequently falleth into a viſible Delinquence of that *truſt*, which was impoſed on Him in the Tranſaction.

The next ſucceeding Act of ſpecial *truſt*, is the *Juſticial*, or *Juſticiary*, which paſſeth alſo under a Commiſſionary Form. This Diſtinction of *truſt* hath apparently a material Influence in a *Civil* welfare, and ſeems but too abſtruſely limited in the capacity of the *Principle*, where ſo many *Subſtitutes* neceſſarily depend on the Tranſaction, unleſs we might conclude them liable to all Miſcarriages, as viſible Defaults in their Election, Suffrage or Incircumſpection, too heavy a Burden for him to undergo, is only called to the ſimple *Expoſition of the Letter*,

and the Regularity of the Court. Yet nevertheless, since every material infringement of *trust* must be enlightned by the intention of the will (not distinguishable, but in an equal Remonstrance clearly preceding to exact the Remedy) either in *Opposition, Difficulty*, or *Defect* to our Addresses, may render the said *Principal* impeachable in his *trust*.

Private trust extending to a *Publick* use, holds only Application to a *Civil Commerce*, although ready money, or other visible Commodities may possibly pass in exchange between the Agitators: yet insomuch as there must be in equity, an ultimate rate to every Commodity, which extended either by inessential or adulterate Glosses, serious Attestations, or any other Manner of Circumvention, on the Ignorance, Insufficiency, or Credit of another beyond the *extrinsick* value, is an actual *Fraud* tending to the subversion of that General *trust*, should dignifie and support a *Civil* welfare; in which Respect, the most competent Judge lent the ejected *traders*, no other Distinction then *Thieves*; as *Solomon* had formerly noted their Incapacity to retain their Integrity. This inconvenience hath taken Root in most *Civil Societies*, either through *a Licentious tolleration*, or a *Difficulty in Regulation*. Pretences of Improvement, and Encouragement of Trade probably ushering an Indulgence to the *Former*, while Lux and Neglect lent Obstruction to the *Latter*; every one no farther weighing a General Interest, but in resentment of his own particular: So that the whole Method of a *Civil* Commerce, becomes but one general intercourse of *Pippery*: But it may here possibly be objected, that this Disorder may sooner fall under every Mans Observation, then any Mans Regulation. In Reply we will only return a Pattern from some Particulars, as the common Materials to our Livelihood; which, under sundry *Civil Societies*, have their publick, known, and limited Imposition of Rates, rising and falling, as their depending Exigents require: From which method we may collect a Parallel to a more General usage.

For Closure of our Argument, as an equilibrate to this *Civil* Trespass, in General; we may cast into the Ballance a due Estimate of the essential Dammage in Relation to the Fact; which reaching not a due Reparation to the Offence in a meer impulsive Restitution, being but a bare Consequent to the Casual Discovery: we must yet exact a weightier Imposition to lend the Crime an equal compensation, contracted from the more potential Issue, in Reference to the Intent, where the concealment meets an equal Consequence in the Adventure: It may otherwayes be figured a Game but at half Stakes, where the Winner draws nothing but his own, and the Loser hazzards nothing but Aire, in the Impeachment of his Fame, as the due Penalty

Penalty only to the Infringement of a Publick Institution, which might justly extend to a *Civil* Incapacity.

Neither is the infringement of a *Private trust* always contained under the Latitude of a *Civil* Trespass, where the Transaction hath a collateral Adherence to a *Publick* Interest; as may clearly be distinguished in the Delinquence of false *Moneyres*, and *Diminutors of the true*; whose trespass hath not only Reference to the private Dammage of the Receiver, but reacheth the subversion of a *publick trust*, transigned under warrant of the *publick* Dignity, whose Majesty becomes directly blemished in the Transaction: So that in the general Constitution of every several Jurisdiction, the Offence may justly reach a Capital Delinquence.

Of equal weight, and far more justly, in Respect of the Consequence, may hereto be annexed Acts of *Justicial Perjury*, from whence a Dammage not only is contracted to particulars; but *Justice* it self thereby becomes Impeachable, raising her Fabrick on a corrupt Foundation, unto whose Evidence she had resign'd her full Authority. A matter of the highest *trust*, where Goods, Fame, Liberty, and Life become subverted in a treacherous Procedure. In reference to which Trespass the *Sacred Letter* (according to the Potential and Intentional Consequence of the Matter) layes an authentick Reparation, in an equal Prescription. *Then shall you do unto him, as he would have done unto his Brother.*

Some other Acts of Private *trust*, may also here be instanced, which in their simple Nature hold not so strict a Reference with the *Publick* Interest, though according to the Matter they do work upon, may sometime possibly, with the *Former* hold an equal Paralel, as Acts of *Forgery*; which according to vulgar usage, strictly taken, is, *Aliquid, Manus Artificio falsi vero Insinuare*, whether the quality of this Fact may reach a higher nature then a *Civil* Trespass, is not clearly yet determinable. Most Laws seem in the Nature of their Penalty, which tending but to Infamy, yet leave the Trespassor, still Subject to a *Civil* Reparation, though usually the Practicers are in a condition not capable of either.

The Constitution of the Trespass yet more nighly visited, we properly may lend the *Fact* a higher consequence: not only, in that such vilde Transactions pass usually under the Authority of such *Publick* Forms should guide us to a true Distinction in every thing transacted, but also, in regard the Infringement of a Private *trust* becometh Introduced by assuming something proper to another, not intrusting, as their own, wherein, although the Party not intrusting seems to lose nothing really: yet in Respect, it possibly may engage his Honour, Goods, and Person in

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the Transaction not meeting an exact Discovery. It may be farther justly censur'd as an actual *Felony*, whereby the Penalty may duly be extended to every Person concerned in the Offence. Infamy and *Civil* Incapacity in Reference of the Indignity to the *Civil* Jurisdiction. A *Civil* Reparation, in Relation to the Interest of the *Trustee*, and a Penal Infliction, in Respect of the Dammage ensuing to the Party or Parties not *Intrusting*.

As to Acts of Forgery (if we may properly so call them) which tend but to adulterate, corrupt, or otherwayes Sophisticate any common vendable Commodity, they may justly be remitted to the Distinction of a Breach of *Publick trust*, visibly tending to the subversion of a *common Traffique*.

To this Distinction of private *trust* may also possibly be reduced such Transactions, as pass between parties under the common Notion of another, whom they but falsly *Personate*.

XLI. *Of Violence.*

HAving formerly searched into the Nature of this *Principle*, in Reference to the *Security* of the *Natural Union*, we will here Reflect on *It* in Relation only to the *Security* of the *Civil Property*; wherein we may first generally observe, that no *Civil* Trespass whatever more highly infringeth the order of a *Civil Society*, then *Violence*, however figured, being as it were, a private Insurrection against the *Civil* Power; In which regard, 'tis probable our Laws do interdict, that any one in such a *Procedure* should become reinvested in his *Property*, though visibly never so injuriously detain'd: And on this Consideration only have possibly formed the severity of their Penal Statutes against Acts of Felony, which seldom are specifically committed, but under some degree of *Violence*, though frequently the enterprise may finde no Opposition: for whether such Goods assumed were under safeguard of *House*, *Pail*, *Wall*, or *Ditch*, or other Enclosure; yet nevertheless, the indirect Ingression or Extersion manifest in the Act, is without other Circumstance a perfect *Violence*, whether *Manable* Goods, and unguarded in *Waste* or *Common*, may properly fall under such Distinction, is not so clearly evident, unless they have a proper Signature, or Brand peculiar to the Bounds of such a Priviledge, besides *that* of the owner: Otherwise passing but under Notion of a Common Stray, the Fact may sometime want Distinction, shadowed with Mistake. As to Goods *Immaniable* or *Wilde*, to which no one can properly lay a just claim of Right, but as coincidents to the Prescription of their own Possessions. The

matter of their taking, though within compass of their proper Bounds, can questionless extend but to a *Civil* Trespass, unless in opposition of their Keeper, if forth their Limits taken, they justly pay the Forfeit of their Dammage.

What other Circumstance in Particular, with Reference to *Place*, *Matter*, *Motive*, *Manner*, or *Measure*, may either aggravate or lenefie the Matter or Nature of the Offence, we farther will endeavour to discover.

The *Place* can lend no other weight to the offence, then what may thereto be appropriated, in Reference to the person damnified; which not extending any farther Detriment, then barely the privation of his *Goods*, may yet be weighed in a higher Consequence, either taken violently from his Person, whereſoever encountered, or from his House, the place of his security: Insomuch, as Nature prompting every one to a defence, either in Opposition or Persuit; both equally adventur'd by the Injured, with hazzard of his life, may equally be ballanced with the Forfeiture of his, shall wrongfully attempt the Issue.

The Quality of the materials may sometime amplifie the Nature of the Offence; as Goods consecrated to a holy use, where the Malefactor not only makes an hostile Incursion upon *Civil* Rights, but in contempt of his Creator's Ordinance; yet farther seems to violate and cast off the Rites of his Exterior Worship, should binde us in one common Union by his impious Sacriledge.

The *Motive* may sometime not only vary the measure of the Crime, but also change the nature of the Fact, when every Circumstance therein shall tend but to support the present urgency of Nature; it being but a Reproach unto a *Civil Society*. to qualifie that with the Distinction of anothers Trespass, was properly their own, either in Remisness of their Circumspection; or of Relief unto an useless or languishing Member of their Frame.

The *Manner* also frequently may leniate the Nature of the offenee, where the negligence of the safeguard may Minister occasion to the attempters practise, and instigate a facile Inclination to a Design, not formed in his purpose: In which Respect perhaps our Laws reflect on the depriving of our Goods by slight, when under personal Tuition, with no more severity then a petty Larcin.

The *measure* or value of the Trespass can lend us but a doubtful Inspection into the weight thereof to moderate or aggravate the Nature of the Attempt: For as a small matter may sometime prove an evidence to a high neceſſity or Indigence, so may It often be an Argument of an habitual inclination to a vitious Custom,

Custome, which may yet probably be further distinguished in the frequency of the Fact.

Having thus enlightned the Nature of our *Subject* in general with some material Circumstances *therein*. We will insist to agitate *thereon* with more peculiar Reference to the *Civil Property*. Every *Personal violence* tending to Alienation, under what Relation soever, *Wife*, *Child*, *Servant* or *Principle*, is without doubt a *Criminel Trespass*, not only, in that a private Person is thereby usually reduced into Bondage, and the whole Family suffer under the calamity of the Outrage. But the *Civil Society* becomes thereby dismember'd of a Branch belonging to their *Common union*, in an hostile Insurrection against the *Publique* Peace. In which respect alone, 'tis probable the Crime should meet so high a penalty, wherein, as in other Criminel *Trespasses*, the Dignity of the *Civil* Judicature would yet become more illustrated in the Reflection also of the Interest of Collaterals therein damnified.

A *Personal Violence* to *Wife*, *Child*, or *Servant* without an Alienation, may sometime fall under the distinction of a *Criminel Trespass*, as in matter of Rape, where not only the *Civil* but the Natural Order becomes barbarously perverted.

The *House* may also suffer actual *violence*, as in Acts of *Burglary*, which Outrage is justly censured as a *Criminel Trespass* without any regard to the Materials, or strength of the structure; Insomuch as ev'ry mans Habitation is to the safeguard of his Goods and Person a fortress of Defence. The Sacred *Letter* prescribes hereto a certain Limitation, in reference to the Time. *If the Sun be risen on him, his bloud shall not be spilt*. Whether it were that his Person were with the Light become distinguishable, or that the People, then roused from their slumbers, were in a capacity to pursue or attache him, is not clearly manifest, neither being necessarily inherent to the exception, which in the ground of the Interdiction annexed, seems explicitely thereby to have changed the Nature of the Trespass. *For he should make Restitution*, lending it no other weight in such a Circumstance, than a *Civil* Trespass, following therein the general Distinction of a *Theft* according to the Sacred *Letter*, from whence we may collect new Matter to an Argument Material to a farther Discussion. Whether it were more Consonant to Reason and the *Civil* welfare to pass simple *Larcins* under the distinction of a *Civil* or a *Criminel* Trespass. The prementioned Authority might seem to silence the pretence of an Objection, had not the spreading corruption of Mans depraved Nature daily required a more Rigorous opposition. In which respect, we will decline the Luster of so eminent a Light, (though it more plausibly might be our guide,)

guide,) more clearly to diſcloſe the weight *thereof* in every Circumſtance, hath reference to our Frailty in a *Civil* Practice.

In order to the propoſition we may inferr, where general Acts of *Theft* fall under a *Criminel* diſtinction, the manner of the Fact is more miſchievouſly proſecuted, on the leaſt jealouſie of Surprize, or a Diſcovery. And the Attempters life once viſibly attainted, anothers Life becomes too ſlight a conſideration to lend reſtraint to farther Inſolence: So that the Rights of Nature often urge to perpetrate an Evil not intended. In perſuit of their ſafety to deſtroy Another; Nor is there Matter to deliberate, when as the pilfering Circumſtance is with the Tragique Iſſue held equivalent. Whereas the Fact extending but unto a *Civil* Treſpaſs, no rational Man would wilfully incurr a greater Hazard to avoid a leſs. Where the *Treſpaſs* is ballanc'd with the forfeit of *a Life*, the Injured proſecuteth the Offender to his farther Damage, without any hope to be reſtored to his *Property*. Where *Reparation* only is the Penalty to the Fact, the *Treſpaſſee* becomes not only reinveſted in his *Property*, but makes a conſiderble advantage of the Injury. *The Reſtitution reaching to a double Retribution, when the Property was taken in the cuſtody of the Treſpaſſor, when alienated extending to a Quadruple or a Quintuple* compenſation, So that every Member of a *Civil* Society is not only hereby animated to a vigilant Circumſpection for the Preſervation, but the Improvement alſo of his Property, which intentive Caution becomes remiſsly abated in a ſupine neglect, where the poſſeſſion ſeems fortified under the ſeverity of a Criminel Infliction.

To which concluſion may poſſibly be alledg'd; that Treſpaſſes of this Nature are ſeldome perpetrated but by perſons of a deſperate Fortune, who are incapable of other Reparation than a Corporal Infliction.

The Objection paſſing for Receivable, may probably on a more exact Inquiſition, fortifie the former Aſſention. When we ſhall duely conſider, that who flie from a certain exiſtence by Induſtry, to acquire an uncertain Livelihood by the daily hazard of their Lives, will, queſtionleſs with greater Terror, reſent the rigorous Impoſition of their Hands, then the Momentary Interception of their Breath. They only become indulgent to Life, who daily taſte of the indulgences of Life. It being frequently obſerved among Licencious, deſperate, and deboiſt People, that the Innocent, for a petty Salary, will caſt the fatal Lot impoſed on the Criminel.

Perhaps in the Propriety of the Rule may yet appear a farther difficulty. How reſtitution ſhould really be exacted, where nothing can viſibly be Leavied. The *Sacred* Preſcription anſwers the Objection, *He ſhall be ſold for his Theft*; but ſuch

such Impropriety may be alledg'd in *Christian* Practice not so warrantable: Nor was it so under the former Institution, but with limitation of time, which not reaching the value of the Trespass, in the Term prescribed, might probably become renewed, though not explicitely implyed in the Letter. It may also fall under some Ambiguity; what advantage should be acquir'd from the imployment of Persons so improper for a *Trust*, and so unapt for Labor. As to the *former* Instance, we may grant them utterly excluded such capacity; and the *Latter* may be concluded Fruitless, without the high severity of their Keepers, which aggravated either by the Avarice of the One, or the stubborn remissness of the Other, may sometime probably extend unto a Breach in our Humanity. In which respect alone tis probable the use of slaves have so long been ('mong civiliz'd Nations) quite abolished. But the Imposition equally remitted to the vigilance of the *Justiciary* Power may probably meet an Institution more approveable, which being appropriated to the advantage of our Foreign Plantations. The *civil* Frame would not only be discharged of a prejudicial and superfluous Burden, but reap a common Benefit from their impulsive Industry.

XLII. *Injurie.*

UNder the Latitude of this *Subject* is formed the Dimension of every *Trespass*. But what Rule should lead us to the Definition of *Her* Nature; is not clearly obvious.

Custome and common usage have made prepostrous Incursions on the Rights of *Nature*; and no *Civil Authority* so exactly refined, but oversway'd by Mans common corruption, wilfully digresseth from *her* Principles, though the *Sacred Prescription* hath visibly rais'd *her* Institution on *That* Moddel, *what ever you would that others should do unto you, the same do you unto them*; from whence we may safely conclude, that whatsoever we do unto Others, we would not have done to our selves, is an unquestionable Trespass justiciable by an Ordinance secretly recorded within our proper Brest, whatever in Repugnance may proceed from the Result of humane Institution, we must appeal to this high *Tribunal*. Not only to restrain us from the Prejudice of others Interest, but also in the Legal Prosecution of our own, to leniate and allay the rigor of Decrees, enacted to suppress our growing Evils. Whose Execution else might possibly subvert the Nature of a *Civil* Institution, Insisting on extreams of Right to render Right injurious. But though every man hath a competent Impression of this Light

to guide him perfectly in the Decision of his Rights, yet few men have Integrity to follow it. Avarice and Animosity, both furiously persue and passionately embrace the heaviest Imposition can be warranted by Authority; so that it will be very material to the useful *Ministry* of a *Civil* Jurisdiction, not to yield up Her sword without Reserve to any, though the ground exacting It, be never so considerable, lest a vindictive Fury should press the Consequence to the Subversion of a joynt Associate. The severity of the *Letter*, being constituted to suppress an Evil, more by Awe then Act. In which respect, it will be highly necessary, in reference to the *Trespasser*, to distinguish of the Manner of the *Trespass*, whither *voluntary* or *Casual*, though the *Civil* Jurisdiction adhering only to the Matter, do make no difference in their Nature. Forasmuch, as *Trespasses*, under the *First* distinction, may justly merit the severest penalties, clearly figuring a presumptuous disbanding from the *Civil union* in an insolent infringement of the publick Peace, whereas *Trespasses*, under the latter Distinction, removed from the Intention of the will, meeting a plausible Reparation in a voluntary Restitution become not, under a *Civil* Permission, justly Actionable, nor must we so strictly adhere to the *First* Circumstance of the Fact, as to neglect the *Latter*. Since either making a Retraction from the Procedure, may possibly change the Quality of the Distinction, what being *voluntarily* commenced, in the timely Reluctance of the will, becoming as receivable, as the *Casual*. And what *Casually* produced, maintained in an obstinate opposition, becoming as insupportable, as the *voluntary*, which Distinction seems implicitly enfolded in the Imposition of the Sacred *Letter*, where the reparation of every *Trespass* extending *to a Fifth part more then the Trespass*, was the highest Estimate to a voluntary Restitution; but where the *Trespass* was so perversely defended, as to be brought to a *Justiciary* Audience, the Reparation instituted, *was double the value of the Trespass*.

Subsequent to this Distinction in a Civil *Trespass*, is that infrequent usage, which our Practitioners reduce under *Real* and *Personal* Actions. The *Real* properly taken, issue from some *Breach* of Contract formed under *Speciality*, and receiving such Distinction, in reference only to the Extent of the engagement, which passeth to the *Real* Possession of the deceased *Trespassor*, though legally remov'd to his succession. The *Personal* hath simply an Adherence to the Person of the *Trespassor*, without collateral Reference to his Succession or Successors, and properly doth terminate with Him. But as the Intention of the *First* Distinction becomes too often frustrated by the

the fraudulent mixtures of ſundry Intereſts collaterally conſiſtant with the Treſpaſſors. So the *Latter* may ſeem not altogether properly ſo limited; in reſpect the *Treſpaſſor* deceaſing, e're the Agitation of the *Treſpaſs* is determined, the *Treſpaſſee* is totally left void of reparation, though the advantage of the *Treſpaſs* be poſſibly tranſlated on the Succeſſor of the *Treſpaſſor*; to the no ſmall impropriety in a Civil Inſtitution.

A *Perſonal* Treſpaſs may ſometime poſſibly fall under the infringement of a *ſpecial* Contract, where uſually the Letter lends a Rule unto the Law; but falling under the omiſſion of a verbal Covenant, the weight thereof may reach too high a Conſequence, to lend *it* an exact Deciſion from auricular proof; Inſomuch, as the Principles have not waded into ſo mature a conſideration, as to become exactly underſtood to one another, much leſs unto an unadviſing Auditory, who eaſily become diverted from a Subject, wherein they totally ſhould be diſintereſſed, to render thereof an Authentique Evidence.

Having thus far made Inſpection into the General Nature of a *Civil Treſpaſs*, we farther in particular will adviſe of the Extent thereof, in Reference to each peculiar *Property*, inherent to a *Civil* uſage.

The Dignity of a Family materially conſiſting in the Honour of the *Wife*, we properly may *Firſt* reflect on ſuch Aſperſions as tend unjuſtly to defame her Conjugal Fidelity. Not only in reſpect of future blemiſhes, may thereby be transferr'd on her ſucceſſion, to a laſting prejudice: but alſo in Regard the preſent welfare of *this Civil* unity, chiefly depending on their mutual Love, is thereby ſhoke, if not ſubverted in the enſueing breaches of undermining Jealouſies, which oftentimes break forth in Tragique Iſſues; ſo that it will become highly material to the ſafeguard of a *Civil* union, that the *Civil Judicature* ſhould make a conſiderable defence againſt ſo important a Diſorder: not to the ſuppreſſing of ſuch ſcandals as are implyed only under the ſtrict Notes of their Formalities; but ſuch licencious Imputations alſo as become ſhadowed with artificial and diſguiſed Gloſſes, extending to opprobrious terms of Infamy, though ſuch general Notes of Obloquy, may paſs as unimpeachable, ſeeming but to figure an unadviſed paſſion; no purpoſed deſign of Malice, in reſpect, that if ev'ry ſuch momentary diſtemper of the Mind might lend our Frailty ſuch a Priviledge, no miſchief but would find a ſhelter under ſuch Protection: and though the *Civil* Judicature ſhould impute it but an Act of Paſſion; the common Auditory will ſcarcely ſo interpret it, in whoſe cenſure alone, the Fact becomes injurious and impeachable.

Farther-

Farthermore, the *Civil* Juriſdiction declining in the Procedure, the protection of the innocent in a plauſible ſatisfaction, exaſperates the fury of incenſed Parties to proſecute a Reparation of their own Election, which frequently extending to a deplorable Iſſue, reverts the Guilt upon the *Civil* Faculty; whoſe remiſs Inſtitution had lent Licenciouſneſs to the fomenting of ſo high Diſorders.

This ſcandalous *Imputation* extending to a *Criminel* Impeachment (according to the Conſtitution of divers *Civil* Juriſdictions) may farther juſtly meet an Attribute of a higher Nature then a *Civil Treſpaſs*: although moſt *Laws* have (under ſuch a Reference in their cenſure, not viſibly implyed ſuch Diſtinction. Where the Charge is ſo invectively inſiſted on, that the Life of the Innocent becomes caſt into a doubtful ballance. To warrant the aſſertion Regular; we ſhall need to inſert no farther proof, then what we may collect from Sacred Practiſes, as the Prophets Impoſition on *Suſanna*'s malicious Proſecutors. So likewiſe other *Treſpaſſes* of Defamation reaching to a Criminel Impeachment (though ineffectualy ſucceeding in the Proſecution) incurr equivalent Infliction, though perhaps it may be inſtanced, that Laws have in the weight of each Tranſaction, no other Object to direct their courſe, then the Reſult of thoſe occurrents onely fall in Act, without reflection on the Intentional, which rarely are diſcoverable.

In anſwer to the Objection is reply'd. That every general *Axiome* of ſuch Dignity, to become proper to ſo conſiderable a *Structure*, ought to have ſuch *Solidity* in the Poſition, that every Branch *Thereof* ſhould alſo thereto become Regular. But the true Efficacie of this Rule hath but uncertain Tenure. As we may viſibly inferr on Acts of *Slaughter*. Where the Fact becomes diſtinguiſhable in her Nature, only by ſuch Circumſtance, as may give Light to the Intention. And in matter of *Treaſon*, where the intention only (without any reference to the Fact) becomes impeachable.

But where ſuch *Defamation* extending to a *Criminel* Impeachment is legally not proſecuted. The Nature thereof queſtionleſs, may properly be diſtinguiſhed within the Limits of a *Civil Treſpaſs*.

Farthermore, Since all Acts of *Defamation* are no other ways Actionable, then as they may become prejudicial to Life or Livelihood. We may here alſo reflect on the Capacity of the *Wife* in reference to a *Civil* Function, which ſometime, poſſibly, may be divided from the Husbands Commerce. And in Aſperſions ſhould impeach the Fame in *Civil* Rules may bear an equal weight, as if ſhe were the *Principle*. But where the Imputation

putation can visibly extend to neither Life nor Livelihood, the *Trespass* may more properly fall under Regulation of the *Moral Censor*.

The *Sacred Letter* intimates a *Trespass* in Reference to our present Subject, not so exactly visited under the Constitution of most Laws, on casual Mischances, which in Diforders of others, happen to women with Childe, to the Destruction of their Fruit, where the Punishment was at discretion of the Husband, and the Fine under Censure of the Judge.

Whether in the voluntary separation of the *Wife* from her Husband, the Suggestors and Coadjutors become liable to a *Civil* Trespass, may possibly sometime meet Exception, where the fury of the Husband is so violently pursu'd, That the safety of her Person is visibly endangered, and that the manner thereof be no farther protracted, then the *Civil* Magistrate may be truly informed of the Disorder; Insomuch as every Member of the *Civil Union* is on every occasion obliged to become assistant to the Publick Peace, but where the Opposition is continued, without Remonstrance, or Allowance of the *Civil* Rule, the Procedure is *Civilly* Impeachable, under what Relation soever it be shadowed: All other Trespasses extending to the Infringement of the *Civil* Order, are only common to the *Wife*, with other Persons of the *Civil Frame*, however Qualified.

Nor can the Dignity of a Family be intirely preserved in the safeguard of the *Conjugal* Reputation, were the Constitution of the Law herein never so exactly constituted, where the translation is not supported in a Regular adherence to the succession: In which Respect, we must here Reflect upon such *Trespasses* as have a Reference to the Interest of the *Father* under the Relation of a *Childe*; who frequently are seduced to their Infamy and Ruine, and the irrepairable Discomfort of the Parents: And although the mutual Agreement of the Parties herein transacting may seem to take away the Nature of the *Trespass* transacted, in Reference to the Interest of the Principle peculiarly herein concern'd, *Volenti non fit injuria*. Yet in Regard the Inclination of the *Seduc'd* is usually too fraudulently acquir'd to lend the Procedure such a Priviledge, where solemn vows and Imprecations are the preface to pretended Contracts; which wanting other Evidence then the Interessed, the Infirmity of the credulous is betray'd to common Infamy: on which Credible Suppositions, the *Civil Law* erecteth a positive Institution, exacting for Reparation to the Abuse, a competent Dow'r to the deluded party. And in reference to the Parents Interest, depending on the Consequence (The will of the Childe being according to the Rights of Nature, on which the *Civil* is erected, but subordinate to the Parents Direction) Were the Fact first

qualified with all due rights of Honour, not reaching a *Paternal* Priviledge. The Attempt in reference only to his Dammage falls under a Criminel Infliction; the weight of which Preſcription ſeems implicitly enfolded in the *Sacred Letter*, where the Treſpaſſor was not only enjoyn'd to *Marry the Seduced, but to give the Father alſo Satisfaction for the Treſpaſs:* Inſomuch as the *Father* may probably purſue other Advantages in the Alliance of his Childe for the Honour, Support, and Advancement of *his* Family then viſibly is diſtinguiſhable: Beſides the Comfort and Delight might Iſſue from the ſatisfaction of *his* proper Choice, in an agreeable Succeſſion: whereas other ſirrupticious Proceedings tending to ſiniſter Purpoſes, prove frequently the deſtruction of the *Childe*, and a laſting grievance to the Family.

Servants hold uſually their Adherence to their *Maſters* Intereſt under a ſpecial Contract, and can, without their Licenſe, not equitably be ſequeſtred from their perſonal Devoyr, under the Authority of what Relation ſoever, except the *Publick*: in which all private Intereſts, but collaterally involv'd, may poſſibly receed to ſuch Injunction. Yet to preſerve the Dignity of the uſe, it were material, that it ſhould legally be exacted, but as the lateſt Remedy unto the higheſt Exigents, in favour of the *Civil Commerce*, the chiefeſt Column that ſupports a *Civil Union*.

Such Sequeſtration may alſo be conſidered, as *voluntary*, or *Impulſive*. If the Act proceed from the mutual concurrence of the *Servants* will, with any others, ſhall retain him from *his Maſters* uſe. Both parties may therein joyntly or ſeverally become Treſpaſſors.

Nor is it yet improbable, but that a *Servant* oftentimes may be ſuſpended or Reſtrained from his *Maſters* uſe *Impulſively*, where others violence ſhall either Intercept his Induſtry, or actually diſable him from his Imployment; in which the Reparation juſtly may exact a double Penalty, in Reference to the Intereſt of the Principal and the Collateral, as alſo to the ſatisfaction of ſuch Breaches may enſue thereon unto the Common Peace.

Whether the *Maſter* in Correction of his *Servant*, diſabling him from preſent uſe, become liable to a *Treſpaſs*, in Reference to his ſuffering, is not exacly obvious, in that the Servants Induſtry is but the Maſters Benefit: Yet nevertheleſs the *Sacred Letter* ſeems to imply a compenſation to his prejudice, *Equivolent to his Service, extending to Privation of a Part*, though inconſiderable, perhaps but to reſtrain the fury of the incenſed, in Authority, by his proper Intereſt: But where ſuch diſability inflicted ſhall extend the tearm of Servitude, the *Treſpaſs* is indubitable.

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On what ground the *Female Servant* is enfranchis'd from her Contract, on Transaction of her Nuptials, under the favour of some Laws, is a difficulty not easie to unfold. If the Priviledge be authoris'd from the *Publique* Benefit, may probably ensue the change of her Condition, in the advantage of a useful Succession; the consequence can take no weight from the distinction of her Sex. In that the Male excluded from the grant of such a Priviledge, is equally endued with the same capacity; so that the Procedure must be admitted totally inscrutable, or partially inequitable.

Under the distinction of *Office*, may properly be imply'd the Nature of our *Civil* Faculty or *Function*, which either *Publique* or *Private* is sundry ways impeachable in a common Prejudice. The highest and most visible subvertors of our Interest in this *Property*, are such Disparagements or Imputations, as may infringe our credit in the Ability or Integrity of our *Civil* Faculty, on which especially depend our Livelihood. Nor can peculiar Interests be herein secur'd, without the Circumspection be assign'd by Civil Ordinance, to such Principles may regulate the Order of their Faculty. Admitting secluding or suspending from their Practises, as the Capacity or Comportment of the Pretenders or Associates may usefully exact, lest promiscuous Intrusion might vilifie, corrupt, or otherwise impeach the Interconse of *Commerce*; of which Nature unpractised *Novitiates* may be instanced, who not attaining the perfection of their *Faculty*, Infringe the Dignity and use thereof, should render it to advantage more communicable. In which obstruction also to the common Benefit, may also be annexed *Foreigners*, who with adulterate Glosses, new Appearances, and strange Varieties possess the vulgar (incompotent to judge) in credit with their loud sufficiency, that the most skilful in their *Faculty*, become totally declin'd in their approved Ministry. And the whole Society discouraged in their undertaking, not only to the Private but the Publique Prejudice.

All the succeeding Adherents to a *Civil* Interest, *House*, *Lands*, *Goods* and *Chattels* may properly in reference to our present Subject be reduced under One and the same Forme of Discussion. Since they fall under one common Capacity of Dammage which taking yet Original from distinct Principles may joyntly (with like reference to such Order) receive their Agitation: every Civil *Trespass*, in Relation to the *Last* inserted Properties; issueing either from some former *Contract*, *Trust*, *Intrusion*, or *Casualty*. *Contracts* are either *Special* or *Verbal*; the special pass under intimation of the Letter; the *Verbal* take Distinction from the Intention of the Word. Both in a clear and warrantable Testimonie, fall under One and the same common Estimate

Eſtimate, though the *Latter* ſeem uſually derived from an unadviſed and irregular Proceeding, much ſubject to Corruption, nor uſually extending a *Perſonal* engagement. The *Former*, more maturely tranſacted, is with more Difficulty retracted, and uſually conveigh their force to a ſucceſſive Inherency; Both in their diſtinct Notion (as formerly imply'd) lend Rules unto the Law. Yet with this Limitation, that the Contents thereof, become no way repugnant to any one Preſcription of the Law. No private Act being Legally receiveable, which tendeth to infringe a general decree. Our Laws extract the weight of ſuch an Introduction only from the publique Intereſt; as in diſanulling Private Acts intending to conveigh Poſſeſſions, that are Real, when wanting ſuch or ſuch Formalities. The Civil Law more frequently forms an exception to the Procedure, in reference only to the Private Intereſt. As in Repeal of Private Acts are conſtituted to paſs away Eſtates are real, under ſuch or ſuch Proportion to their value: or, in Redemption to tranſ'er Them to Proximity.

In which Reſpect, it will be highly neceſſary to the exact ſecurity of our common Intereſt, that they might be paſſed under ſuch Remonſtrances as might not only lend them a *clear Authentique* and inſubvertible ſenſe in the Letter, to conveigh the intention of the Act, under *Allowance* of the *Civil Power*, we might be freed from the Impoſturie of *Schicaneurs*, Seditious vermine to a Common welfare, and reproachful Impeachers of the Dignity of the Law. But alſo to remove all obſtacles might fruſtrate the Fruition of the Right Tranfacted. The Law muſt elſe in the Permiſſion, but make work for *her* Miniſters, leaving an entrance to ſuch *Treſpaſſes*, may poſſibly not fall within capacity of Reparation, which more effectually cannot be conſtituted, then under Publique Regiſter, as an exact Recogniſance, where every contract might take place according to Precedence of their Introduction, without diſtinction of their Nature, in reference to a Priviledge in their Order, might lend them weight to ſupercede each other. No conditional contract under limitation of Time ſuſpended longer from a Legal Iſſue, then the uſual Term of their Preſcription, leſt any One might interpoſe Anothers Proſecution. So ſhould the Inception of every Contract be void of Error; and the Iſſue free from Circumvention, which ſhadowed oftentimes with other ſpecious Forms of ſurety involve us in a certain Deffidence in every Tranſaction, from which no Caution can deliver us.

Such Forms of ſpecial Contract, falling under a viſible Diſtinction of *Truſt*, may alſo uſefully be removed from the ſhadow of ſiniſter Practiſes under Regulation of the Former Me-

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thod, whose Nature, Use and Difference, having sufficiently (in Reference to the Capacity of our *Treatise*) been enlightned in the Discussion of another Principle, we will omit here farther to insist upon.

Acts of *Intrusion*, depending only on the Will, seem to take on a Nature of Infringement, in our common Right, too remissly treated under so favourable a Distinction, as a *Civil Trespass*. Though tending but to the subversion of a Private interest, Insomuch as the *Civil* Order is infringed also in the Procedure, which otherwise is so jealous of incroachments on her Rights, that we are thereby interdicted to assume our proper Goods in the possession of another, though visibly never so injuriously detain'd, but under Form of *her* Prescription: much less not on our own Presumption, to be invested with Anothers *Property*, which Institution is directed to a considerable use in the composure of the *Civil Union*, whose Consequence might else meet Acts of such Hostility, as possibly might shake the structure of the *Civil Frame*. In which Respect, our present Forms of *Conjectural Ejectment*, are happily, of late, admitted to a Legal Procedure in the Decision of a Title.

As *Trespasses* of *Intrusion* are by the *Civil* Jurisdiction often censur'd too indulgently; so *Trespasses* of *Casualty* are sometime by the Law too rigorously pers'u'd, where the joynt interest of the *Trespasser* is equally involved in the Accident, as in common Damage by Fire, which may possibly seem equaly impos'd on Him, that was the first visible Motive to the Accident, in that under the severity of such an Ordinance, we should become more vigilant to avoid occasion might minister unto so dangerous an Event. Yet, nevertheless, in regard, the most advised sometime may incurr the *Casualty*, in which his proper Interest, being sufficient evidence to clear him of Neglect, the publique Interest might more plausibly sustain the Damage; which only is endued with Capacity to stop the Issue of such violent Erruptions.

XLIII. *Oppression.*

UNder the common Influence of *this Principle*, may probably be imply'd, all the Calamities can tend to the subversion of a *Civil Society*. Nor can an Evil to the sense be Figured from the severest Menaces of Heav'n, whose Extraction may not arise from this Original, either, as a Judgement to *It*, or as a Judgement in *It*, *That* may be figured in *Ægypts Misery*, *This* in *Judæa Captivity*. Oppression being the com-

mon Pretence to every Insurrection gainst the *Civil* Power; in whose Suppression frequently is urged a necessity to impose it. So that in reference to our mutual Interest with the Magistracy, united or divided. It will be equally requisite, that the *Civil* Power be not too rigorous to exact, nor the Subject too scrupulous to suffer. We need not to insert a farther proof to lend more weight to the Position, then what we may extract from the Commencement of our late Disorders. In which consequence the Transactors were enforced to persue extravagant encroachments on our Liberty, attempting to secure successful Mischief in Impunity. But to lend a clearer evidence to the Assertion, it will be useful truly to distinguish of the Nature of our *Subject*, which thus may properly become enlightned. *Oppressio est, quicquid sub forma Juris, ultra Juris Præscriptionem, ad existendi Difficultatem à nobis Exigitur. Whatsoever is exacted from us under the form of Right, beyond the Prescription of Right, to reduce us to a difficulty of existence.* Which Exposition erected on a *Form of Right* may possibly seem limited within the Faculty of a distinct *Jurisdiction*. In that, the Institution of Right is properly peculiar only to a *Civil* Power subordinate to none. Yet in respect the general Quality of Right extendeth to a vaster Latitude then a *Civil* Prescription, as we may perfectly discover in the Rights of *Nature* and of *Nations*. The *First*, distinguish in Humanity, the *Later* rais'd on Customary Forms. The Nature of our *Subject* may extend to such Acts of Hostility, as are imposed on us by a foreign Power beyond the Rules of their Prescription. Yet since it falls not in Capacity of a *Civil* Jurisdiction to regulate the Consequence of such Disasters, more then in a timely Circumspection to divert, oppose, or otherwise prevent the Incursion of an Enemy, which being a *Subject* more properly inherent to the *Foreign* or *Exterior Object* of our *Minister*, we will remit to Treat thereof in our premised Order, Insisting here to take a view on the Distinction of our *Subject* in Reference onely to the National or Interior use of our *Community*.

In persuit of our Proposition; having extracted the Nature of our *Subject* from a Dependence of Right. Which Faculty peculiarly inherent to the Capacity of the *Civil Ministry*, either in Permission or Commission; either Allowance or Prescription. The weight of this our Argument may seem only to rest on the Ballance of the *Publique* Faculty. Yet since from the same general Influence of Right is derived a Faculty in Right, distinctly inherent to every Member of the *Civil* frame, we severally may reflect on their Transactions in order to the Parts of our *Distinction*.

Farthermore, from the ensueing Branches of our *Distinction*,

on, may possibly be infer'd, That the Nature of our *Subject, that's under a form of Right extending the Prescription of Right*, doth not only require the Authority of the *Civil Jurisdiction* to lend It such an *Attribute*, under the Influence of whose Rules, Right only is distinguishable. But in such Ordinance Prescribed, may seem to take away the Matter, in the Circumstance, should qualifie the Nature of our *Subject*. Since the exaction, should pass the Bounds of such Prescription, doth fall within the Limits of a *Civil* Rule. In which conclusion would arise an impropriety not feisable. That the true Nature of *Oppression*, so figured, can neither be consistent with a *Civil* Institution, nor without It. To remove a pretence to the exception, we may infer, That every perfect Ordinance in a *Civil* Rule is not only formed under Circumscription of a *Divine* and *Natural Institution*, but in the Object of *Her* proper Constitution (our common Welfare) establisheth a Rule, but truly qualifies *her* Nature: so that to infringe that Order should sustain *her* Structure, or to digress from the Intention of her proper work in the Contexture of *her* own Injunctions may properly imply what is infer'd in our Distinction. *To exact that of us under a Form of Right, which is beyond a due Prescription of Right.* Nor can It be consistant with the Nature of a *Civil* Regence, under a form of Right, to exact without Prescription, since in such Procedure, the *Civil* Power casts off the Ornament of her Investure, to take on those, are only proper to Hostility. So work certain dissolution in her Frame.

Whether a *Customary* Right extending to a *Civil* Prescription should bear an equal weight in our *Distinction*, may meet a high perplexity in the Decision, since every *Customary Right* within their Circumscription becomes equivolent to a *Civil* Ordinance, under Tuition of the *Civil* Suffrage, though totally repugnant to the Constitution of *her* general Order. An impropriety scarce receivable in a *Civil* usage. That the Influence of a Decree should neither move equally nor universally to every part of like Capacity, to discover the ground of such a Priviledge, were not of little moment to the rational Establishment of a *Civil* Institution. In persuit of the enlightning may be infer'd, that *her* admittance to a *Civil* Allowance may possibly meet divers Occurrents scarce obvious to the nicest observation, involv'd in the obscurity of many Circumstances are lost in the Elapse of Time, and sundry changes. The most visible and frequent may take original from these Particulars, *Circumvention, Opposition, Improvement*, or *Necessity*.

Under the *first* Intimation, the *Gibeonites* frustrated the Ordinance of the invading *Israelites*, in shadow of a Covenant, but surpriciously acquir'd; whose subtlety, nevertheless, met

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but the Imposition of a slavery, *To be Hewers of Stone, and Bearers of Water.* In Reference to the *Second*, may be instanc't the *Kentish Immunity*, freed from a *Civil* Prescription, in Attachment of the *Conqueror*; which grant was nevertheless *signed* with the Blood of the *Conspirators*, under the Reward of *Treason*. The two *former* Occurrents, transacted impulsively, or beyond the Intention of the *Civil Jurisdiction*, can equally not be charg'd on *her* Account, more then in the Immaturity of Consultation, which not impowr'd to recede from the Injunction of her proper Act, without Impeachment to *her* Dignity may justly enterpose a *Penalty* to Counterpoise the *Fraud* or *Violence*, and execute the Incroachers on *her Rights* in a signal Infliction, invested with the Rights of so singular an *Immunity*.

The two *Latter* Inducements may plead a more plausible Reception to their Establishment, pretending only to the Advantage of the *Civil Frame*: As in the *Publick* Devastations of *Towns*, *Cities*, or *Harbours*, by eminent Disaster. The *Civil* Jurisdiction sometime is enforced to invite Recourse of *Forreigners*, to re-edifie and re-populate such Scituations, with the Advantage of some new *Immunities*, peculiar to their Habitations. So on urgency of Affairs, where Receipts of Commerce, *Ports*, *Harbours*, Places of Defence, are on the Borders of a *Civil* Circumscription, peculiarly erected for the common Safety or Encouragement of Trade. *Immunities* are often granted by the *Civil* Power for the Advantage of the *Common* Welfare in a plausible Institution. But where the cause of such Establishment shall cease, or where no Ground for such a Priviledge can be suggested, but the Interests of equivolent Capacity with any other of their joyne Associates in the *Civil* Frame. Such *Graces* are unequally enlarged or continued under Allowance of a *Civil* Institution, in that those singular Advantages may frequently impeach a *common* Interest, either in Opposition, Diversion, Interception, Obstruction, or Impediment in a common Procedure or Commerce, or other *Civil* Transaction.

Having made Inspection into some Parts of our *Distinction*, we will assume the overture of the *Sequel*, to which alone the Induction holdeth Reference, since whatsoever is *Exacted under Form of Right, and beyond the Prescription of Right*, must also be extended *to the Prejudice of our Existence*. To intimate the Nature proper to our Subject, the burden must be heavy, under whose support a man is forc't to stagger. Nor is the burden judged by the weight, but by their Faculty on whom It is imposed, which yet more clearly to discover, it will be requisite here farther to imply how far the Bounds of such a *Difficulty in Existence*, as is figured may really extend. In order to the Imposition

quisition, we may infer a double *Faculty* inherent to *Existence*, the *Natural* and the *Civil*; and though there may appear too vast a Latitude between their Exigents, to cast them *Both* into one common consequence: yet since they have so inseparable a Dependence on each other, that the continued Breaches in the one, are but infallible Progressions to the Ruine of the other. We may admit them to an equal Perpensation in their several Distinctions.

The *Natural* Existence falls under a prescription of Humanity, not only, not to impair, but to secure. And though the *Civil* Power seem frequently to cast restraint upon her Impositions, in reference to the Incapacity of our *primitive* support, (whereon *her* Fabrick is erected) without reflection on the *Latter*, plac't in the Constitution of *Her* Frame. Yet the Concession issues at so wilde a Distance, that the relief may rather figure Remedies applied to a dying man, then timely Comforts to secure the living, desisting rather to exact from whence naught can be levied, then at a farther Distance to forbear in Apprehension of a future Exigence. To form the Institution more considerably adjutive to our frail Composure, such Exigents fall under the Tuition of the *Civil Ministry*, as passive Breaches in *her* proper structure, who should fore-run the Incidents in a timely Prevention, either in an useful Imployment, or in a considerable support, agreeing to their proper and distinct capacities. The Object of a *Civil* Institution being to improve our Natural Condition, not to abandon us in such Extreams, might thrust us on a Savage Procedure, but to sustain our Frailty, when Natures Store becomes sequestred from our use by *Her* Prescription; so that the urgency of our Being must now of Necessity, fall under a *Civil* Distinction, which may properly be limited in *Order*, *Decency*, and *Sufficience*: Under the Prescription of the *First*, to avoid Confusion; under the *Second*, Reproach; under the *Third*, Indigence: And though the two *Former* Dimensions appear of little Moment, in Competition with the *Latter*, yet duly examin'd from their Dependents only are deriv'd the very Essence of a *Civil Constitution*, which is not plac't in those ostentive Investures, that seem to claim the Homages of Honour from a vulgar Sense: But what may free us from the insulting scorn of others, and our own dejecting Inconveniences; Improprieties are truly inconsistent with the Nature of a *Civil* Association, which requireth a due concinety of Parts to the Establishment of an exact *Community*: So that the *Civil* Indulgence will be of little Efficacy to the Security of our common *Properties*, if totally abandoned to the unequal Advantages of one another, when *necessity* shall urge submission: The highest *Tyrant* in a *Civil* Translation, which the *Civil Jurisdition* weigheth not,

as passing under warrant of our proper will, though oftentimes not in Capacity of a free Election, bound in the Fetters of more pressing *Evils*, *With such Advantage* Jacob *wrought on his Brothers extremity, to supplant him in his Birth-Right*: which Practice is so far become a general Habit in the *Civil* Frame, that common observation justly hath entitled us but *Wolves to one Another*; so that the most considerable Relief can be expected from the *Civil* Power, in Reference to such Grievances, is to secure us from the mutual Rapine of one another.

Publick Exigents may sometime possibly require high Impositions for our common safety, beyond the visible Prescription of the *Civil* Institution, either in *Measure*, *Matter*, or *Manner* of their Levies, which closing in a more advantagious Restitution, then any *Civil* Commerce can pretend to. The Blemish of the Procedure will easily be avoided, and form of each mans Private Store a *Publick* Treasury. Such is the present Practice of the most advised * *Society* in *Civil* Rule; to exact without a Legal Formality beyond a private Capacity, or without a *Publick* urgency, were but to make so sensible a Fracture in *her* proper *Frame*, as possibly might leave *Her* destitute of Aid in times of highest Exigence, rendring *Her* Members unwilling, unable, or destructive: So that we may conclude, with the Dignity and credit of the *Civil* Power is form'd *Her* proper safeguard, secured by the mutual Interest of *Her* Parts. From which Consequence we may collect, how materially it conduceth to our *Common Welfare*, that the *Civil* Power should make a nice Inspection into the Agitation of *Her Ministers*, of what Nature soever; since acting under Her Authority, their Indirect Proceeding should attract a common Disaffection to *their* Principle, the extent of their Commission not so exactly visible in every Circumstance, under which shelter Mans innate Corruption is fomented to licentious Practises.

* Venet.

To the Restraint of such attempts may possibly be inferr'd, The Ordinance of the *Civil* Jurisdiction in Reference to such a Procedure, under Distinction of *Exaction*; in which the Intention of the Institution might probably attain an useful Remedy, were the *Procedure* more Neat, the *Penalty* and the *Reparation* more considerable. But the *Remonstrance* becomes usually obscured, if not smothered, under the unequal Interests of the Mannagers. The *Amercement* meerly formal, or of little Moment; and the *Reparation* scarcely worth the owning: So that the *Trouble*, *Opposition*, and *Charge* of the Persue distinguished before the Prosecution is commenc't, will hardly finde a rational undertaker (unarmed of Revenge) fondly so much to wound himself in Prejudice of another: Nor were it much material, were the Laws yet herein more severe, or far more strictly put

in execution, since every shallow apprehension can avoid the Attainture of the *Letter*, in a disguised Procedure, turning their Guilt not seldom on the Sufferer, 'gainst which evasion the *Civil* Power not cautious to secure *Her* Purposes, frustrates the Intention of *Her* Institution: For Proof to the Position, omitting to insert secret *Gratuities*, oblick *Covenants*, and usual *Brocages* for common Loans beyond a Legal Estimate of *usury*. Is it not a prodigious Inconvenience in *Civil* Rule, that what the *Civil* Ordinance hath under Penalty confined to eight *per centum*, should *Publickly*, and with *Impunity* extend to thirty, forty, fifty *per cent.* at a common *Broakers*, but sheltered in the abstruse Distinction of the *Letter*, which limits the Transaction only to *specifick Matter*, no general Act of Commerce: whereas the perfect Nature of *Extortion* consisteth in excess of Lucre, raised on Another's Exigence, under what Form soever the *Subject* of Advantage is Communicable. *Money*, *Goods*, *Lands*, or any other vendible Commodity. Nor can it be exacted from a Rational Agreement, except the Party so assenting were thereto prest by urgency of Affairs, to avoid a higher Inconvenience: So that the weight of such a Procedure falls only on the weaker Vessel, who rather might (as a Religious Priviledge) claim the Protection of the *Civil* Power. In this Currant runs every irregular Acquisition in the *Civil* Texture, whether it have Reference to the Inherents of *Her Ministry*, *Publick Commerce*, or other *Private Transaction*. Custom having digested the Practice to a form of *Right*, as may be instanc't in *Officiates*, where it sufficeth not to the success of our Affairs, to render Publick Agents their prescribed Fees; but their Remissness thereto will require their *Rights* of *Expedition*, *Circumspection*, and those of *Circumvention* too: essential Gratuities must make return unto disguis'd Civilities, and no one thinks he hath his due, without Addition made thereto. We undervalue their Abilities, not answering to their Expectation; and setting not an equal estimate on our Affairs, fail thereby in our proper Interests.

Commerciants pass usually all Rules of Circumscription in this Licentiousness, meeting no Arbitration but the Will? Nor is the manner subject to a scruple, where all Advantages are held allowable, as a plausible Faculty to the improvement of their Interest. Nor is in *Nature* or in *Civil* Rules so nigh Relation found to lend Restraint to such a Procedure. Necessity casts us not only on Neglect, but on Inequity: Not prompts us only to abandon, but destroy. Each exigent in our Transactions but exposing us to become a prey to one another.

Having thus Briefly searcht into the general Nature of our *Subject*, order requires, that we should next reflect particularly

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on the extent *Thereof*, in Reference to our ſeveral *Properties*, whoſe *Security* may likewiſe meet a uſeful Regulation under the ſame Advertiſements, either as an *Incident to Publick Order*, or our *own mutual Occurrents with one another*. But ſince the *Civil* Miniſtry hath an Intereſt in the diſtinct Advantages of all her Parts; we may proceed to viſit their Support, under the mannage of their proper Owners.

In which perſuit, though It may ſeem an Impropriety in *Civil* uſe, to take more care of us then we do of our ſelves: Yet in Reſpect the common good conſiſteth in the welfare of each Part, and that a Private Family is conſtituted of ſundry Parts, not ſoly, nor yet alwayes, (in reference to each other) inherent only to the preſent owner. We may here farther weigh the uſe of ſuch an Inſtitution, not only *exclusively*, in Reference to the *Subordinates*, but *Inclusively*, in reference to our ſelves. Stating the Queſtion under the Authority of Divine Preſcription, as an Indulgence to *Nature*, which Avarice might otherwiſe o'rethrow, inſiſting to exact beyond *her* Faculty. *The ſeventh day thou ſhalt do no labour, nor thy Sons, nor thy Daughters, nor thy Man-Servant, nor thy Maid-Servant, nor thy Oxe, nor thy Aſs*, &c. Which Injunction had not only Reference to a vacancy for Holy Duties, as viſibly appeareth in the Nature of the *Coherents*, improper and Incapable of ſuch Intention; but was eſtabliſh't to a *Civil* uſe, as more authentickly is prov'd in the expoſition of the Inſtitutor. *Man was not made for the Sabbath, but the Sabbath was made for Man*. Nor did the Inſtitution extend only to the rational and ſenſible Adherents, but likewiſe to the irrational and ſenſleſs. The *Earth* had her Sabbaths, and times of Reſt. Nor yet in Reaſon can it be conjectur'd, that ſuch Reſtraint on *Civil* Rights, ſhould only have a Reference unto time. Many Occurrents happen in a *Civil* Tranſaction, to which we may allow an equal Priviledge, either in regard of the Indiſpoſition of the Agent, the Impropriety of the Seaſon, the Inaptitude of Materials, or the like: ſo that It may evidently appear, as neceſſary to the Eſtabliſhment of our *Common* Welfare, that every part of the *Civil* Body ſhould, in their ſeveral Conſtitutions, hold the ſame *Analogy* with the *whole*, as the *whole* ſhould with *Her Parts*. The Regulation of the *Civil* Miniſtry will otherwiſe prove but of little Moment to our *common* Security, if *her* Influence be retracted or obſtructed from a perfect Diſtribution to the ſmalleſt and remoteſt Veſſels of *her Frame*. No man in *Civil* Rules hath o're himſelf ſo abſolute a Power, as to diſpoſe of his own perſon to the *Publick* Prejudice. A man may under the diſtinction of one Law prove *Felon de Se*, as well as *Adultry*. And to a like capacity paſs in the Cenſure of an equal Penalty, much more may prove a *Trespaſſer* in

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the infringement of his proper Interest, where those of his Adherence collaterally are concern'd. The consequence may possibly meet an opposition, in that none, under the distinction of a *Civil* Capacity, can be conjectur'd of so little sence, intentionally to prejudice, what visibly can only minister unto their support.

To which may be return'd, had every man the use of Reason free, as well in Act, as in Distinction, *Civil* Prescriptions were of little weight. But sundry passions so eclipse that Light, that we distinguish least in what concerns our selves, declining to insert the Allurements of the sense, as a Distemper subject to intermission and relax, but proper to the change and season of our Age. Other accidents, whose momentary Access, nevertheless, doth often make such Breaches in our *Civil* Constitution, that time nor industry can scarce repair: What may we then impute to the effects of those continual Feavors of the minde, *Avarice* and *Ambition*; whose Objects finde not a Prescription, but are increast and multiplyed in Fruition: In which our Faculties not suffering Lascitude, because unsatisfied, move by continuance more impetuously to the subversion of all Rights, *Civil*, *Natural*, or *Divine*: and though they seem to take on a Pretence to the Improvement of our *Civil* Interests; yet the Progressions are too violent and irregular to meet a happy issue, which frequently (on the necessity of Accidents) involve us to attempt beyond our Faculty unto our proper Ruine: So that the Circumspection of the *Civil* Power in our Transaction, may prove as necessary to our proper safeguard, as the security of theirs depends on us. Nor can we properly pretend to a support from Institution of the *Civil Ministry*, on the miscarriage of our purposes, if her Authority extend not to preside the regulation: Which Procedure may possibly seem to tye up our Actions in too strict a rule, usefully to agitate therein to our Advantages or others. To take away the Ground to such a scruple, we may imply, the Intention of such Institution we propound, is only form'd to regulate Extreams, and keep the Current of the *Civil* Faculty from such extravagant Debordements, might leave their Channel dry.

XLIV. *Fire.*

FIre, the most sudden and impetuous subvertor of a *Civil* Interest, being an Accident more susceptable of Prevention, then Suppression, may justly claim the nicest Circumspection of the *Civil* Ministry, but since the Calamity may take original from divers *Principles*, we will reflect on the extent

of their Particulars. The moſt ſignal and terrible Devaſtations by Fire, take their extraction often from *Etherial* Cauſes, where either Sulpherous or Bittuminous Matter by exhalation rarified, becomes in Motion or Concurrance of Superior Bodies ſuddenly enflam'd; ſuch was the direful Termination of thoſe Cities, whoſe high Impieties could find no Mediation. And though the event may be concluded to have been a Judgement ſent from Heav'n; yet are the cauſes thereby no leſs manifeſt. His Providence that had ſo long reſtrain'd the effect, could have made void the Iſſue, under the like Diſtinction, and probably from like materials, though of a Groſer Quality, may be derived thoſe Eruptions from the Entrails of the Earth, which undermine the Continent to the ſubverſion of thoſe *Structures* are thereon erected. The Cauſes of ſuch Accidents not falling in Capacity of a *Civil* Regulation, more then in Removal of the Scituations, or Reſtraint of Licencioufneſs, we will not here inſiſt upon. The object of our Purpoſe being more peculiarly to ſearch into the Ground and Remedy of ſuch Events, ariſing from our own immediate Actions: though poſſibly, ſome of the Nature of the Latter Intimation may ſometime wilfully or Caſually proceed from humane Malice or Neglect, as may be inſtanc'd from thoſe viſible Effects take Iſſue in ſuch Mines, as are compoſed of combuſtable Materials.

The moſt uſual Cauſes, and more proper to a *Civil* Regulation, are thoſe coincident to our General Affairs, which are either *Voluntary* or *Caſual*.

The *Voluntary* are either *Hoſtile* or *Criminel*. The *Hoſtile* may alſo meet a double Diſtinction, being either *Foreign* or *Inteſtine*. The *Foreign* have more properly a Reference to the Exterior Object of our *Miniſtry*. And under the Intention of ſuch Order, may meet a happier Diſcuſſion. Whether the *Inteſtine*, may properly fall under the Rules of a *Civil* Preſcription, may meet ſome Ambiguity, extracted from the omiſſion of *Her* Procedure. Yet nevertheleſs, though the Litigious Multitude break forth the Limits of a *Civil* Power, yet are they no leſs ſubject to her Ordinance, which take Reſtraint from Execution, when Reduc'd; in reference only to the publique Detrement, which might enſue a Legal Proſecution, not from the due Demerrit of the Offenders; concluding, where the Criminels are more numerous, then the Innocents; It far more ſafe is to Remit then Proſecute. As to voluntary Acts ariſing from the private malice only of Incenduries, they juſtly may be caſt into the Ballance of a *Criminel* Delinquence; How ſlight a Conſequence ſoever the Iſſue may encounter; In reference only to the Publique Damage threatned in the Attempt.

tempt, nor can in equity the rigor of the Punishment frustrate the Intention of a *Civil* Reparation to the *Trespass*, the Edict will else remain defective in the chief object of *Her* Institution *Cuique proprium reddere. Casual* Occurrents of this Nature meet a double Object in their Regulation: *Prævenire & Suprimere.* To Prevent and to Suppress. The intention of the *Former* undertaking tendeth to make void the Event. The *Latter* but to moderate the Issue.

The Prevention consisteth chiefly in *Position of the Fabrick.* The *Materials of the structure.* The *Separation of Coincidents.* Or *vigilance of the Humilists.*

The *Position of the Fabrique* hath reference only to the Primitive Erection of a Habitable Convention, whose structures being disposed at convenient Distance from each other the Damage, on such Accidents doth frequently ensue their tod nigh vicinnity might probably be avoided, not only in the preservation of adjacent Parts, by the Advantage of a vacant interposition; but possibly in the timely suppression of the Erruption, where first it took original, lending a freer Access to abord the Place with a more speedy succour.

The *Election of Materials* proper to the Edifice conduceth much unto the safeguard of a *structure* from such Accidents. Nor was it without iust consideration, that Timber buildings were in our populous Receptacle lately inhibited by a special Order. In reference to their Aptitude more suddenly and more violently to minister to every slight occasion of *this* nature. Stone, is without doubt the most secure Defensive in a *Fabrique.* And in default thereof, next Brick, but why the inward frame should be allowed of so little consequence, as to make no distinction of *Materials*: is not so clearly Evident, Since *Furr*, which falls most frequently in use compar'd to Oak is far more Subject to the Attainture of *this* Element.

Under the *Separation of* Coincidents may be imply'd, not only the sequestring of Receipts of *Office* are designed more peculiarly to the use of *Fire* from the Connexion or vicinity of the more Principal Receptacles of Commerce or Community *Publique* or *Domestique.* But the removal also of Materials f om the approach of *Fire*, which in their proper Natures, are more apt insensibly to catch at the encounter. As *Powder*, *Flax*, *Straw* and the like Commodities: nor can those dreadful Accidents have lately hapned from such cause in our capital seat be sensibly reflected on without astonishment, that yet the *Civil* Power, gives way to those Transactions were visibly the ground to those Events, having such proofs to awake their Prevoyance, suff ing the sayle of Powder to be made even in the Center of the most eminent confluence of the People.

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The vigilance of the Familists may possibly meet a greater difficulty in Regulation of their *Ministry*, in reference to *this* Casualty. In regard the Trust thereof is frequently so remov'd from the Principel, that the Injunction cannot take effect, unless the suffring Innocent become responsable for anothers Fault subordinate to his Rule. In which respect, whither exacted by *Publique* Imposition or *Civil* Caution; It will be highly necessary, that the owners eye preside the Circumspection, removing from the Hands of his Domestiques every use of *Fire* on proper seasons for Retreats of Rest. Or in their Incapacity or Absence, to transact the Charge on such a Substitute, as may considerably be concerned in the miscarriage of his Trust, not to remit the care thereof to servile Mercinaries, which Practice may yet probably meet other advantagious uses in a private Family preventing such Disorders, as under nights obscurity and silence tend to purloin and dissipate their Masters Goods.

The *First* and most considerable means that may *suppress these* Accidents commenc'd, is timely to provide for their Discovery, which making usually more dangerous Incursions on the Retreats of night; Our *Wards* and *Bellmen*, if diligent in their Search, and more frequent in their Rounds, might herein meet a happy Institution.

The *Second* Remedy to stop the Fury of this Evil consisteth in the readiness of Materials to extinguish or demolish. In reference to the *Former* use, our conceal'd currants pass many Streets in Pipes, if yet more generally design'd, might reach a high Propriety. As to other Instruments or Engines fit for either Purposes. All publique places of Receit in every *Ward* might with variety and store be furnisht at the common charge. For the Assistants to the work they usually on the outcry are too numerous to be truly useful; some flock to view the Spectacle, some for Booty, few for Action; so that in such confusion, the intended succour seldom is successful, in which respect it will be highly useful, that the *Civil* Power do constitute a general *Regulator* to the undertaking, with such *Officiates* have Judgement and Experience to manage the Direction.

XLV. *Inundation.*

UNder the Distinction of *this Subject* may be compris'd not only such Incursions of the *Ocean* as make encroachments on the Continent. But such *Debordeurs* also of the *Inland* Flouds, as meet not proper Channels to their Excursions Thither; and though some of this Nature frequently conduce to

to the fertility of the Soil; yet where they swell beyond the due capacity of their Currant insensibly or unseasonably; or where they lodge beyond a competent extent of Time; The weight of such Advantage will hardly countervail the Detrement; either in their sudden Destruction of *Chattle* surprised, in the Overflow. The loss of the *Crop*, or perversion of the true Nature of the *Soil*, rendring it less proper for encrease; by chilling of the Earth, or else unapt, deceitful, or unsound for *Grayzing*. Nor can the Air be thereby free from some corruption, becoming often less Salubrious to the Borderers.

To avoid the Inconvenients, Damage or Disorder may arise from the irregular course of *either Flood*, falls not within Capacity of *Particulars*. The Aid must be more *General* to meet a happy Remedy, which ought not only to extend to Those in present are concern'd therein; but those in future also may be so. And since the exigence of the work exacts more diligence then common Rights do usually encounter, which always are but too remissly prosecuted. The *Civil* Power must lend Authority and weight thereto by her Prescription.

To the expulsion of the Maritine Incursions. The Industry of our Neighborhood abroad may in their penible persuit lend us a happy Pattern to the undertaking. As they to us at home have to their own Advantage and to our Reproach, lent us a Proof to the Restriction of the Inland Floods. Nor is it only Practice or Necessity have made them happy in the Mistery; but their intire Conjunction of their Common Faculties to an assiduous perseverance in the work. For whether the Possession be already lost, or only yet in danger to become so. The Common-wealth is euqally concerned with the Private Owners. So that every Purse and Hand, as to a common Prejudice, ought to be ready to the Enterprize, directed to Recover or Secure; which finished, the Restitution of the Charge might pass on the Account of the *Proprietors*. *Particulars* are usually not able, or not well intentioned to mannage with success the undertaking, persueing only their Advantage, not the *Common good*; so that the work thereby becoming or Protracted, or Imperfect, the Charge is oftentimes redoubled, e're the exact fruition is attain'd. The necessity and perfection of the work, is therefore proper only to the due Regulation of the *Civil* Power. It will be requisite *Her* Substitutes (of due capacity to Judge, and full Authority to Execute) make frequent visitations on such Parts, as are already damnified, or may be incident to the Casualty; whose censure thereof signified to the *Proprietors*, with Legal summons to consult with them theron. The urgency of the *work* and the extent of the Expence (is with Integrity) to be duly ballanced with their Capacity

pacity to the undertaking, which not extending their Ability. The work proportionably impos'd, may be remitted to their Industry, under such Rules of Direction and Limits of time, as may be held expedient to the Perfection and Advantage of the Enterprize. But where the Faculty of the Owners cannot reach the due Intention of the work; the Aid, whither of Men, Money or Materials, may be exacted by a Legal Ordinance from the next Associates, extending to such Bounds, as may without much Inconvenience to the Adjutants, timely and exactly consumate the undertaking; which charge with due consideration may be reimburst from the Anual Revenue of the Secured or Recover'd *Property* in such Proportion, as may not much incumber the *Proprietors* in the Restitution. And though the expence of the work may sometime possibly exceed the value of the Land in question; yet is the undertaking for such Cause not to be abandoned; Not only, in that the Common-wealth becomes thereby deprived of a useful part unto *Her* Common *Ministry*. But in Respect the extent to future Damage, may thereby ensue, not clearly is distinguishable; either in the Expansion of the *Flood* beyond Her visual Bounds, in the recourse of other Streams not timely find their Issue. Or otherwise diverting *Them* unto a new Erruption on some other Place, was free from any such Incursion. Nor in Recovery of Possessions *Lost*, at such excessive charge, as may extend their value; ought Alienation thereof to be made from the *Proprietors*, as an authentique Purchase to the Undertakers. But such advantage may in equity be granted *Them* therein, as Time may make a Reparation to the Accident. Whereas the work left totally (without *Prescription*) to the *Owners* Rule, though ne're so Able, Numerous or Unanimous, is generally so leasurely and so sparingly pers'u'd, that both their Cost and Industry tend only in Portracting, but to multiply their Damage, and transfer their misery to others. Designes of this Nature require *Validity* and *Diligence* to render them successful, who herein gripple are of their Expence and Time, do but betray their proper Interest.

XLVI. *Excess.*

THE Expulsion of this *Principle*, in Reference to the security of our *Civil Property*, may on the first Inspection rather seem a *Subject* proper to the Regulation of a private *Oeconomy*, then of a *Civil Ministry*. And in the Order of position, more proper to improve then to secure our *Civil* Interest: Yet since we, through the Infirmity of our Nature, are become improper

improper Guides to our affections, which frequently ſo far tranſport us to the Indulgence of the *Senſe*, that no Extravagance can finde a Limit to *Her Miniſtry*, that, under flattery of our own eſteem, prompt every one unequally to aſſume unto themſelves a higher Eminence in the *Civil* Order, then properly to them belong. *Envy*, *Vanity*, and *Ambition* fomenting ſtill an Emulation in Exceſs to attract new Homagers to the exhauſting of our *Civil Faculty* in an Impertinent, Ridiculous, and Profuſe Expence: We juſtly may ſubmit to the Preſcription of the *Civil* Rule, to lend us more eſſential Ornaments to our Diſtinction, then what conduce but to Reproach and Ruine in their Improprieties. Nor is the Intention of our Order here infringed to reduce our *Subject* to one uſe, might more effectually pretend unto *Another*, ſince *Both* have their Reception under one Capacity. Nor *This* but the Progreſſion to the *other*.

How far the Nature of our *Subject* may extend it ſelf in a clear and Rational Diſtinction, to lend a Rule to this our Agitation, may be extracted from the Inference, we formerly have inſerted in the Diſcuſſion of a *Civil* Exiſtence, which is not properly implyed by the bare ſupport of Nature in a Savage manner. But in the Allowance unto every Part, a Regular and Decent Conſtitution, agreeing to the proper uſe, and true Capacity of each Particular. Nor is It our Intention here to weigh the Nature of our *Subject*, as a vitious Habit in our Practiſes, which we have formerly remitted to the Regulation of the *Moral Cenſor*. But as an Impropriety in the *Civil* Order deſtructive to our proper Intereſts.

What this Order ſhould require in the Compoſure and Tranſaction of each Part to form a *Civil* Harmony, may clearly be collected from the Diſtinction of the uſe, to which they are deſign'd. Thoſe Ornaments and Inveſtures, which are proper to the Head, or Hand, tranſferred to the feet, but prejudice or Incumber their peculiar Action. Nor doth the Impropriety conſiſt alone in Tranſpoſition of Dependencies; but in the Regular Application of their own Inherencies, proportion'd to the due Capacity of every Individual in the kinde, their Function elſe will but encounter an Imperfect Miniſtry.

Whether ſo ſtrict a Poſition directed to confine the uſage of our *Civil* Faculty within the proper and peculiar Bounds of every Currant, be really conſiſtant with the common Benefit, is not ſo clearly obvious, in that our frail Condition is patcht up with ſo many Imperfections in Compoſure, that not only our Infirmities, but our very Vices are become uſeful, if not neceſſary to the conſiſtence of our *Common Union*: *Lux* and *Riot* being the hopeful Springs whence *Commerce* draws her daily Affluence, which procedure to render more Authentick, ſome will extract a Pri-

a Priviledge from the viciſſitude of Natures Inſtitution, alledging, that *Corruptio unius eſt Generatio alterius:* Although the Parallel be but unequally apply'd. The Intention of *Her Work therein* is only to preſerve *Her* own *Production* in every Individual. *Ours* tendeth to deſtroy both our ſelves and our *own.* Nor can the common conſequence of ſuch profuſe Expences, well examined, tend otherwiſe to the Advantage of the *Civil* Frame, then as improper Aliments may ſometime in their habitual frequency of uſe, become neceſſary to a depraved Conſtitution. Moſt occupations now eſtabliſhed depending but on their Superfluous Miniſtry. Or as the preſent Conſtitution of our *Commerce* is compos'd, doth alwayes the Excreſcence flow to the Receits of this our *Civil* Continent. But greedy Forreigners with uſeleſs Trifles, Knacks, and Toyes, more frequently fleece us of other much more Conſiderable Commodities, in Miniſtring unto ſuch Giddy and diſtempered Fantaſies.

The propriety and extent of our *Subject*, in Reference to the Intention of our work, together with the weight and Conſequence of the Effects may thence enſue, thus generally diſcovered, we will inſiſt on ſuch Particulars, as may lend light to their Suppreſſion; whether the oſtentacious Tumor may conſiſt in *Habit*, *Habitation*, *Entertainment*, or *Domeſtick Equipage.*

As to the Faſhion of the *Garment*, moſt Commonwealths have in all Ages held their ſeveral Diſtinctions proper and peculiar to the order of their Miniſtry in the *Civil* Frame. The *Romans* had their *Plebean* and their *Noble* Veſture: which Inſtitution was elſewhere eſſentially in uſe, till Wealth had juſtled Vertue out of Action. Now generally regarded but as a trivial Formality: under which Licenſe probably the *Vulgar* have with us aſſum'd their Inſolence.

Their Difference in *Materials* is not in uſage of ſo great a Moment, eſpecially in ſuch Climates, where they take their primitive extraction: yet hath the *Garniture* met often ſuch Extravagance (ev'n where affected Vanity had won Her higheſt Priviledge) that the *Civil* Power, (not only in Reference to the Dammage of Particulars, but in ſecurity to the Publick Intereſt) hath oftentimes been forced to reſtrain the Prodigality, in a general Inhibition of the uſe of *Cut-Works*, *Embroydery*, and *Clinkant* under Impoſition of a Penal Law.

The Ornaments of our *Habitation* may in their Structure juſtly claim a higher Priviledge in Expence, in that they are with *Ours* directed to a *Publick* uſe, contributing effectually unto the Luſtre and Dignity of the Place or City, and bear the laſting Marks of Honour to a Private Family: yet with ſuch Limitation, that the Fabrick not extend either the uſe or Capacity of the Founder. Nor that the Interior Ornaments ſurpaſs in value their Dependancies.

Special

Special Entertainments have a prodigious Latitude in expence, not seldom prejudicial to a *Common* Interest, and usually are tendered, either as the *Rites of Ceremony*; *The Pledges of Amity*, *The Proofs of Hospitality*, or else *The Masks of Forbery*. The *first* Transaction is exacted, as a National Association in Humanity, to Gratulate, or to Consolate, to Mourn, or to Rejoyce together; as in Funeral or Nuptial Solemnities: which, rarely falling in a *Civil* Practise, may be allowed greater Liberty. The *Second* improperly o'reshadowed with such ostentive Proofs, may justly be excluded such a Procedure, whose nature rather is expressed in the mutual Freedom of a voluntary Congression, then of a sumptuous and singular Invitation. The *Third* worn out of use, had yet their Improprieties, Inconvenients, and Incumbrances, not only to the Practiser, but to the common Interest of the *Civil* Frame; in that the order of Munificence did never reach the object of so specious a pretence. The true Nature of *Hospitality* consisting in the Relief of the Indigent, not in the Indulgence of the Slothful: Or in Recourse of Jollity, forming rather a Harbour to Necessity, then a Receipt to Sensuality, or a Shelter to Neglect. The Lustre of so high an *Attribute* must bear a more distinct Appropriation to the use, separated from the very appearance of any other Collateral Inherence whatever. The source must not only be free from Ostentation, but the Materials from Indecency. Not the Refuse of Riot, but the choice of Fertility: Nor can the Dispensation meet Excess, where all may be requir'd.

The *Latter Object* of Entertainment is most frequently but the secret Train to the Advancement of a private Interest. A Courtly kinde of *Commerce*, where the engaged Guest becomes designed to defray the expences of the Feast. But singularity and experience have made so nigh discoveries on the Ambush, that usually the Adventure must be ensured in a plainer Style, delivered in more visible and currant Characters; so that in such enlargements, the casualty of success may possibly in time, remove the urgency of the Publick Regulation to a Private Caution.

Our *Domestick Equipage* may be implyed either in Quantity, or Quality of *Servants*, or in Appendents to our *Service*, whether for Use or Pleasure. The number of Servants hath generally been reduced to a smaller Retinue with us, since Vanity had changed her Position. Few well affected to the Burden of a Multitude, or where they do exceed therein, it is but in the Quantity of *Those*, which are designed more for shew then use.

The *Appendents* to our *Service* or Divertisements do often reach to a more considerable Superfluity, either in *Plate*,

Horſe, or other Appropriates to *Field Divertiſements*.

The uſe of *Plate*, in latter Times hath been extended to a high extravagance almoſt in every Family, even to thoſe Utenſils deſigned to the vildeſt Offices: which Impropriety muſt, under Suffrage, queſtionleſs, produce a viſible Obſtruction in a *Civil* Intereſt, where the Principle Material, that ſhould lend life to Commerce, in a perpetual Revolution, lies dead, in an improper *Miniſtry*.

Horſes are, under ſeveral Diſtinctions, of ſo general an uſe, that their Appropriation, but in number, hardly meets Exception. Yet is the *Courſer* of ſo little Moment, and ſo high a Charge, both in their Breed, their Keeping, and their uſe, that the Intention of their Exerciſe may oftentimes require a *Civil* Regulation, in that they frequently involve the Owners in Debates to a Prodigious Iſſue of Expence, wherein the moſt adviſed often are expoſed to the fraud of Mercinary *Combinators*.

Field Exerciſes may in their frequent Practice meet a plauſible Intention in the Times of Peace, rendring the Body apt, vigorous, and hardy to more uſeful and more generous Encounters, on urgency of Martial Expeditions: Yet where the Burden of the *Chaſe* lies only on a ſingle Manager, the common Conſequents are uſually too weighty for a Private undertaker. Nor can the Liberty of *Parks* ſo generally in uſe, paſs without Prejudice to the *Publick* Intereſt, when as ſo many and ſuch vaſt Extents of Land are only but deſign'd to Pleaſure. The Priviledge, rightly weigh'd, ſeems only proper to a Princes uſage: And though the Soyl may ſometime plead a License in ſterility, or in a further uſe thereof for Paſturage to Horſe or Chattel: yet is the Advantage therein but of little Moment in Compenſation to the Dammages.

Nor are theſe Oſtentatious Habits only in their Nature prejudicial to our *Civil* Faculty; but alſo in a neceſſity of perſeverance, not leaving place to the Reluctant will to make Retraction from the Error; In apprehenſion to anticipate the evil, we in Protraction do but aggravate: which Impoſition of Engagement, too frequently, though oftentimes too late, becomes reſented by unadviſed *Commerciants*, inſiſting in their Vanity but to ſupport their Credit.

In purſuit of our Agitation on this *Subject*, order would exact we ſhould imply a courſe whereby the *Civil* Power might viſibly diſtinguiſh, or yet exactly rectifie the Conſequence of this Diſtemper. In Reference to the Procedure, we may infer a due Reſtriction in the uſage of our *Civil Property*, proportion'd to the Nature and Diſtinction of our *Civil* Function; which paſſing the Preſcription of a decent Rule, might bear the Impoſition of a *Penalty*: Or otherwiſe, not reaching the Intention of the

the Ordinance (as often is observ'd among Licentious Livers) the Interdiction passing generally; exception (as a Priviledge) might be cast only on the Infamous, which not prevailing, might plausibly ensue, *Suspensio ab usu Facultatis, ex Informatione Proximi Possessioris.* A Suspension from the usage of our *Civil* Faculty, on Information of the next Inherent to the Property,

XLVII. *The Principle Subjects fall under Circumspection of the* Civil *Power, In Reference to the* Improvement *of our* Civil Property.

HAving thus briefly pursu'd those general *Objects*, whereby our *Common Interest* distinctly is *secur'd*, under Tuition of the *Civil* Power. Order requires, we next assume those *Principles* whereby our *Civil* Faculty should likewise be improved, under Circumspection of the *Civil* Rule: Insomuch as the perfect Constitution of the *Civil* Parts can no otherwayes suffer Cessation, Remission, or Obstruction of encrease, without a Detriment, then the *Natural*, *Casualty* or *Propagation*, frequently exhausting more then possibly might support the visible and present exigence: So that we may conclude in *Civil* Rules as well as *Natural*, where motion findes no Station in vicissitude, That *Non Progredere, & Retrogredere, Non to Advance is to Decline.* Our Interests cast on the *Conduct* of the *Civil Rule*, as the peculiar welfare of those simple *Parts*, whose joynt Composure forms one *Common Good*. What she exacts of us in Reference to *Her* Rights, that she may properly require of us, in order to our own. *Expedit Reipublicæ, ne sua Re quis male utatur.* The *Publick* Weale holding still the same Analogy with the *Parts*, as the Parts doth with the whole: What falleth under the distinction of our *Private* usage is our *Property*, what under Regulation of the *Publick*, *Hers*. So that in the miscarriage of the meanest *Part*, the Damage is resented on the *whole*, though possibly that Affluence which lent it due support might be diverted to another Member, under the Constitution of the self-same Frame. Since to a due concinnety, every part must be endued with a faculty proportion'd to his *Ministry*, to which *Excess* may often meet Impediment, as well as a Defect. The proper *use*, therefore to which the *Parts* are more peculiarly design'd, will not only lend us a Direction in the Improvement of their Faculties, to the *Enlargement* of the *Common Welfare*. But the specifick *use* of every *Property* inherent to those *Parts* will guide us also to the *Improvement* of their *Ministry*, to the advan-

Advantage of a *Private* Interest, In Reference to whose distinct Appropriation, we therefore will reduce their Regulation to these *Principles.* 1. *Oeconomical Order.* 2. *Civil Institution and Introduction.* 3. *Serviceable Employment.* 4. *Civil Function.* 5. *Structure.* 6. *Manure. Private Commerce.*

XLVIII. *Oeconomical Order.*

TO preside the *Domestique* Mannage is a Priviledge inherent to the Practice of a *Conjugal* Relation, though Custom hath, with us ('mongst those are most materially therein concern'd) lent *It* too mean an Estimate to own the *Ministry*, casting the Trust thereof on Fraudulent, Negligent, and Licencious Servants, to no small Prejudice in a Private Oeconomy. On what ground the usage took Original, is not so easie to discover, whether *Delicacy, State* or *Indulgency* to *Pleasure*; the two *Former* Pretences can hardly find Admission, since *Age* and *Eminence* afford us in our Neighbouring Nations, most authentique Patterns. Nor are the most extravagant in Feminine Affecteries much less assiduous in their Circumspecion, though thereto but enduced by irregular Motives, as a necessary Dispensitory to their Vanity and Riot. The Consequence of either Practice may visibly be disclosed in the unequal Durance of that welfare, is inherent to those Families with whom this Order finds a due Reception, compared unto *Theirs* have quite abandon'd It.

How the *Nature* of this Charge should be distinguished, or to what Objects visibly design'd, we will endeavour to discover. The *Nature* of the *undertaking* falls (without question) under the Distinction of a *Trust*, though the Trustee seem equally interessed in the mannaging. But usually the Priviledge is assumed only under colour of Purloining for supply to some sinister Purposes, unequal Inclinations, Secret, frivulous or superfluous expences, which Practice is fomented under shelter of an *Interest*, or under shelter of the *Law*.

The *Nature* of the *Interest*, rightly understood, is but a *Potential* or collateral Adherence, under the Distinction of *our* Rules. The *Civil* Law admits the same *Relation* to an equal Partage in the *Acquisition* with the *Principle*, in what Nature soever transacted; which Priviledge may possibly be the Cause, why the Institution meets a happy Issue, under so favourable a Prescription; though the engagement hath a Nebler Object, where the Act is free from any such Advantages.

The Law extendeth not her Influence to the Miscarriage of *this*

This Truſt, in Reſpect the Conſequence is involved in a joynt Commiſſion, under *One* preſent *Intereſt*; though poſſibly the *Truſtee* may totally in Future be ſecluded from the Benefit. Or in that, the Authority not paſſeth under a neceſſary Impoſition, but under a voluntary plauſible and endearing Conceſſion.

The *Object* of the Exerciſe, plac'd under *Circumſcription* of the Family, ſeems totally inherent to *That* uſe, whither implyed in a *timely Proviſion* or a *prudent Diſpenſation*. *Acquiſition* derives her Affluence from too many and too remote ſources to exact *Her* vigilance, whoſe Action only is ſo firmly ſeated onely in the Center of Receipt. The *Firſt* Inference of *Devoyr* may ſeem to approach the Nature of the *Exception*. In that, to make *Proviſion*, is properly but to *acquire* for ſtore, but the Intention confined to the uſe, can really not extend to ſo general a Diſtinction.

The *Objects* thus deſigned to their diſtinct Ballances, we have to *Either* here annexed a Dependent might lend them equal Counterpoiſe; in that they held a mutual Reference to One Another. The *Proviſion* muſt be *Timely* to attain the uſe to which it was directed; when Plenty crowns the Seaſon with Succeſs, and ſets a lower Rate on the Materials, while yet occaſion preſſeth not. Not when Neceſſity ſhall urge ſupply on any Terms. Prevoyance often reaps the fruit of others Induſtry. Nor can their force united be but requiſite. In that, the Latitude of a *Civil* exiſtence falls totally not under ſupport of a *Private Frame*. *Civility* and *Hoſpitality* will challenge a ſupply in Rights of *Decency*; ſo that where *Either* is defective, the Conſequence muſt of Neceſſity, be prejudicial to a *Civil* Fadulty. The Counter-Ballance muſt to *This* be fram'd equivalent, to lend Them an agreeing Motion. The *Diſpenſation* muſt *prudential* be to form a timely Providence materially ſucceſsful. *Exceſs* meets no Preſcription where *Riot* tends to *Diſſipation*; nor *Penury* attains the Honour of *Frugality*; where *gripple* hands becomes the Mannagers. *Sobriety* and *Order* crown Nature with Delight, while *Lux* but haſtens to extinguiſh *It*. The ſcatter'd fragments had their due Reſerve in his Preſcription lent them Affluence by a Miracle.

But how the *Civil* Power ſhould lend an Influence to this Circumſpection, where Love and Duty are not prevalent, is yet a Miſtery. *Honour* may attract, and *Infamy* deterr, in Minds that are thereof ſuſceptable; but where the Inclination hath attain'd that Senſe; *Both* needleſs are to guide the Will to what is Regular. Or if *They* might, the Rule is yet too ſingular to be extended to a General uſage, when Vice finds no Reſtraint in Puniſhment. The happieſt Motive, therefore can be

iſſued from a *Civil* Inſtitution, is to lend the *Agitators* equal Intereſts in their *Miniſtry*.

XLIX. *Civil Inſtitution and Introduction.*

UNder the Intimation of this *Subject*, may be imply'd not only generall Formes of Exerciſe, ſhould render Youth ſuſceptable of *Civil* Action, prefigured in our Primitive *Education*: but the ſpecifique Matter ſhould lend *That* aptitude both *Uſe* and *Practiſe* to a mutual Benefit the Parts have with the *whole*. No one diſpenſed from a common *Miniſtry* to form the *Civil* Frame exactly flouriſhing. But how this wild Propenſion ſhould in every one become directed to a proper *Object*, might lend perfection to the Enterpriſe, were not of little Moment to diſcover, ſince every Perſon hath an innate Faculty peculiar to their *Genius*, no Habit can pretend to.

In Perſuit of the Intention the *Spartans*, who had rais'd their Glory on the Propriety of Natures uſe, left the Diſtinction thereof only to Her yet pure and unaffected Motive, diſcovered in the Amuſement of their Infancy; to whom they had expoſed every Forme, might be inherent to a *Civil* uſage. Nor was this Inquiſition yet remitted to the Circumſpection of Indulgent Parentage; or the Appropriation thereof to their Order. The *Civil* Power ſeems yet more nighly Intereſſed in the Conſequence, to lend the Partiality and Endearment of a Parent ſoly ſuch a Priviledge, the weight hereof they viſibly expreſſed in their Caution, when as the inſulting Foe, would have exacted an engagement of their *Youth* for Hoſtages. Nor was the progreſs of their Induſtry viſited, directed or encouraged by a Private Inſtitution. The Aged and Experienc'd were publiquely the Superviſors to their ſports and exerciſes; who both Inſtructed and Deſign'd the *Price*, where Emulation was inflam'd with Glory, and Neglect or Remiſneſs checkt with Infamy. Private and Mercinary Inſtitutors ſpin out their undertaking but under ſlight and ſuperficial Forms of Practice to the Advantage only of their abject Lucre. Indifference in the *Firſt* Promotor will hardly animate remote Adherents to a perfect Action. How far the proſecution of our Purpoſe may advance a Private Intereſt, is clearly evident in the Conſequence, ſince early Habits in an uſeful *Function* will lay a ſure foundation to the enlargement of our future Fortunes. Or forme a fair Retrait to the Miſcarriage of that in preſent is eſtabliſhed. Practice will entertain the Fancy with Delight; Delight win Aſſiduity; Aſſiduity removes inſenſibly that vacance might ſolicite facile Inclinations to licencious

tious Practices, or lewd Society. Affords the minde a plausible Divertisement. And frustrates both the Snares of Sloth and Solitude; on which consideration possibly *this Institution* became successively digested into Practice, among most Princes of the highest Eminence: So that we may conclude the Suffrage of affected Vacancy, under what shelter of *Civil* Affluence soever, endued with Capacity to act, forms no small Discord in a *Civil* Consort.

To visit yet more nighly the general Nature of this *Institution*, we clearly may distinguish by the Object we propound, the means that should conduct us thither is not meerly Specular. Science may lend a vast Inspection into Natures Mysteries, *Civil* Occurrents, or the mindes composure, yet reach to no peculiar *Ministry* in a *Civil* usage, till practice shall educe such Faculties into Act. Knowledge must attain a proper *Subject* to be wrought upon before it can attain or Illustration, or use. The *Civil* Harmony consisteth in Agreement of Parts to a mutual Correspondence of their Action: Not in the Amusement of a mistick, wandring, and undigested *Speculation*. To descend to a more peculiar Distinction, were but to trace upon a *Subject* we already have elsewhere enlarg'd upon, so far as might be consonant to the due Structure of our *Treatise*.

The *Institution* framed on a proper *Subject*, the *Introduction* also must be timely and authentick, to reach a perfect *Ministry*; not that the season thereto falleth so precisely under the Prescription of their Age, as under the maturity of Endowment in a *Civil* Capacity; though we may properly suspend them from the managing of *Publick* Interests, so long as *Civil* Rules seclude them from disposing of their *own*. In other Respects, the Nature of the Action will lend a more visible Propriety to the season in the use. *Adolescence* and *Virility* more properly are apply'd to *Execution*, and *Invention*. *Age* more secure for *Judgment* and *Advice*: Nor can the extreams of either meet a happy Issue in their *Ministry*. *Youths* Ardour often may precipitate his Force. and *Age* out-live his own Sufficience. The Inherence also to the Action must *Authentick* be to Crown a happy Industry, not only in Reference to *Probation*, but to *Admission*. Voluntary Officiates will in their forward Emulation, or Licentious Procedure, produce but a promiscuous *Ministry*, Commission only can lend weight to *Civil* Action.

L. *Serviceable Employment.*

THe next Inherent to a *Civil* Interest is the *Serviceable*, where the Advantage of Anothers Industry redoundeth to

to the Benefit of the *Proprietor*, that lends them entertainment. To which Diſtinction *Adherents* for *Parade* have no Relation, Appropriates only to Vanity and Oſtentation, really deſigned to no *Civil* Ornament, or Uſe. And though the *Journal* Mercenary might ſeem included in ſuch *Miniſtry*, yet not reduced properly to the true Nature of a *Familiſt*, we will diſmiſs him here from our Diſcuſſion.

In Reference therefore only to ſuch *Limitation* we will inſiſt upon the Nature of our *Principle*, under the Diſtinction of *Domeſtick*, *Functionary*, *or Emiſſive* Adherents.

Though the two *Latter* Differences ſeem properly included in the *Former*, in Reference to one Receptacle, as common to them all. Yet in Relation only to their diſtinct uſe, we may appropriate their *Miniſtry* to ſeveral *Attributes*. The *Domeſtick* have a more peculiar Reference only to the Order of our *Reſidence*. The *Functionary* are intentive on their *Faculty*; and the *Emiſſive* wait for all Eſſayes may tend to Action. The Induſtry of the *Domeſtick* hath more peculiarly for Object but his *Truſt*. The Vigilance of the *Functionary* but his *Art*. And the Diligence of the *Emiſſive* but his *Lucre*, though generally under one common *Affiance*, all mutually endeavour to advance a diſtinct *Intereſt* divided from their *Own*. To improve the Intention of their *Office* in an uſeful *Miniſtry*. We therefore muſt lend *Honour* or *Advantage* to their Enterpriſe. Puniſhment or Infamy are paſſive Motives to a Reackleſs or a ſtubborn Temper, while *Chearfulneſs* and *Hope* lend vigour to their Motion.

To yield diſtinctly to each *one* their proper and peculiar Influence, we ſeverally muſt reflect upon the object of their *Action*. *Truſt* Crowns the undertaking of *Domeſtick* Props; ſo *Joſeph* had attain'd poſſeſſion of his Maſters *Goods*: and *Eliazar* was entitled to the Succeſſion of the *Patriarchs* Wealth. *Truſt* is not only a *Civil* Engagement, but a *Religious* Tye. And in Tranſaction prov'd, juſtly deſerves the higheſt Dignity. The exact Proof whereof appears not barely in the ready Execution of the *Maſters* Charge: But in the conſtant oppoſition of Advantages, that might corrupt, or yet intice him to retard, or otherwayes decline his *Maſters* Intereſt. The Reaſon why our Obſervation rarely can diſcloſe ſo evident a *Teſt*, is probably, *Domeſticks*, that Officiate only a Diſcretion; and under the Reward alone of petty *Salaries*, make ſlight account of their Supporters Intereſt, and agitate therein, as if they would betray their Maſters purpoſes: So that in oppoſition to the Cauſe, we muſt infer the Remedy. The *Adherence* therefore muſt be more *Material*, and the *Condition* not ſo exactly *Mercinary*. Early Relations hold the ſtrongeſt *Tyes*, and a voluntary compenſation more acceptable. As Habit from *Puerility* ſhould form the

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initiation of a *Truſt*, ſo the perſeverance *Therein* ſhould frame a ſafe Retreat to *Age* and *Impotence*: An authentick *Probat* of the *One*, on any change, is but the ſlighteſt Recompence of Fidelity, and the Advantage of the *Others Civilly* Juſticiable.

2. *Functionary* Adherents purſue but the Advantage of their *Art*, and ſeem improperly admitted to the ſole Practice of their *Faculty*, under Preſcription of a certain Tearm. Inſomuch, as Neglect or Stupidity may render them incapable of ſuch a Priviledege, not only to their *Maſters* Dammage, but to the Publick Detriment, ſince ignorant and unadvis'd *Commerciants* rarely can diſcloſe the Imperfection of the work, without a frequent prejudice: nor yet their *Maſters* reap the Benefit of their Induſtry, where Time and Coſt unequally are ballanced in value to the Execution. The perfect'ſt Rule to rectifie the Caſualty to ſuch Occurrences, will be to exact a viſible and *Publick* Atteſtation to their Progreſſion in the *Myſtery*, or to ſuſpend them from the Practice of their Faculty.

Emiſſive undertakers have a general uſe, under the various Direction of their Momentary Entertainers. A form of Servitude not now in uſage among *Chriſtian* Practiſers, where the enthral'd Adherents daily are ſent forth to ſearch occaſion to improve their Induſtry to the Advantage of their *Maſters* Benefit, and their own *Exiſtence*; though poſſibly the Inſtitution might meet a happy *Miniſtry*, under due Regulation, among Foreign *Planters*. The Eaſtern people frequently attract no ſmall Accumulation from their Aſſiduous Induſtry; and more would probably attain, might the enlargement of a regular Impoſition, remotely but proceed to their Enfranchiſement, by *Publick* Order.

L. *Civil Function.*

ALthough the Nature of our *Subject* might properly be extended to *Publick Miniſtry*; yet in reſpect the Dignity of ſuch a *Faculty* can warrantably not pretend to the Advantage of a private *Intereſt*, whoſe regular *Improvement* we purſue as a collateral to the *Publick Welfare*. Our preſent Agitation only ſhall inſiſt on ſuch Particulars, as thereto only have Relation. The Object of a *Civil Function* muſt, queſtionleſs, fall under the Diſtinction of a *Commerce*; ſince thence alone muſt iſſue thoſe Advantages, that animate her Courſe: What therefore may lend Affluence to *Receipt*, muſt viſibly promote the Action. The moſt eſſential Sources are extracted from the *Perfection*, and *Expedition* of the *Work*, *The Reduction of the Charge*, and the *Frequence in Return*.

The *Perfection* of the *Work* becometh visibly advanced in a *timely Initiation*, and *a singular Adherence to the Faculty*.

A timely Initiation, In that *Ars Longa, Vita Brevis*. *Art* hath a large extent, *Life* hath but narrow Bounds: As also, that the Addresses of our Infancy insensibly contract a Habit, more easily to sustain the Burden of their Industry, and with more readiness to execute our *Ministry*.

The *Adherence* to the *Faculty* must of Necessity be *singular* to reach that Excellence should Crown an Enterprise with *Affluence*, where the Spirit is generally intentive on variety of Objects, our Faculties form no *Production*: where but alternately imploy'd, the vigor thereof weakened in Diversion, can rarely form but an imperfect Issue. Those Nations, who had rais'd their *Glory* and *Advantage* on their *Civil Faculty*, (in reference to our Proposition) were generally enjoyn'd by *Publick* Ordinance, to adhere soly to their Predecessors *Ministry*. That trained, from their Childehood under Faithful and Industrious Guides, they might begin their undertaking in the Perfection of anothers Industry; who so successively but adding little unto what was formerly acquired to their Usage and Instruction, they might in time attain the highest Execution and Inspection into Arts and Sciences, that humane Nature could pretend to reach to.

The *Expedition* of the *Work* dependeth on the *Assiduity* in Practice, and the *Facility* is acquired in the frequency of the *Exercise*, whereto the supple *Limbs*, and active *Spirits*, actually applyed from the Infancy, become more prompt and ready to their *Ministry*; whence issueth that delight which should invite and entertain the Fancy to persevere in their Industry.

The two latter *Subsequents* that should conduce to the *Advantage* of a private *Interest* in a *Civil Function*, may seem alternately adjutive to each others Efficacy. The *Reduction* of the *Charge* constituting a lower estimate upon the undertaking, must quicken the *Return*, And the *Frequency* in *Return* must likewise form a visible *Reduction* of the *Charge*; in that the advantage of the price attracteth greater Affluence of *Contractors* to a speedy Issue of the *Property*. And the Protraction of the Issue must of necessity enlarge the Burden of the Charge in an unequal Retention of a dead Commodity.

The *Reduction of the Charge* is, questionless a *Subject* more properly Inherent to a *Manual Operation*, then to an *Intellectual Ministry*. In that *Materials* are but the peculiar *Subject* of an *Art*. No Consequents to the Faculty of *Science*. The weight of our Discussion therefore only tends to shew, how the *Expence* inherent to such *Arts*, may plausibly be reduced under Regulation of the *Civil* Power. The most obvious course may

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poſſibly ſucceed to our Intention. Is the Congeſtion of a *Publick* ſtore, authentickly inherent to ſuch diſtinct *Societies*, as ſhall be needful to a *Civil* uſage: to the proviſion of whoſe Affluence, each particular *Aſſociate*, daily contributing from the Profits of their Induſtry, ſupplies might equally be iſſued thence to every ones Capacity in Action.

Nor leſs expedient *Hereto* were the Execution of ſuch *Seminaries* as might imploy the *Vacant*, *Indigent*, and *Uſeleſs* Multitude, under diſtinction of what *Sex*, or *Age* ſoever, in any ſmall Capacity to Act: which *Receptacles* for common *uſe* might finde their proper ſcituation in ſuch *Parts*, as might afford the higheſt affluence, and yield to all Adherents their peculiar Maintenance at the eaſieſt Rate.

Returns may finde their *frequent* Revolution, either in the Agitators Regulation of his Profits, or the Concurrence of their joynt *Aſſociates*, in a publick entercourſe of *Trade*; from whoſe common *Receipt* might iſſue their Commodities to all *Commerciants* of *Retail*. The *Surplus* form a *Staple* to a Forreign *Traffick*, under adventure of one common Intereſt.

The *firſt* Method to *Improvement* may probably advance a *private Intereſt*, in that no *Motive* ſooner can invite Recourſe of Cuſtom, then an *Abatement* of a Common *Price*, be the advantage ſcarce conſiderable: but ſuch a procedure will ſcarce conſiſt with the joynt Benefit of all Aſſociates, whoſe *mutual* Intereſt is the Object of a *Common Welfare*: In that the whole *Society* muſt thereby be enforced to decline from ſuch Advantages, as properly are requiſite to the due ſupport of a general *Trade*, or make a fruitleſs ſtop in their Proceedings. The *latter* courſe can rarely meet exception, in regard no agitator can ſupply *Materials* to their *publick Stock*, ſo frequently to be o're-charged with the Conſequence, where *Trade* is *Inwardly*, and *Outwardly* ſtill kept alive in a perpetual Iſſue.

LI. *Structure.*

Structure hath a plauſible Intention in a *Civil* uſage, not only as a ſhelter to our Frailty, but as an Ornament and Advantage to a *Civil Society*, in that the Order, Beauty, and Propriety of a Habitation inviteth a more numerous Affluence of People. From the concourſe of *Aſſociation* ſpringeth the Enlargement of Commerce. From the Receipt of *Commerce* iſſueth a *Common welfare*. But how the undertaking ſhould contribute to the *Improvement* of a *private* Intereſt, is clearly not Diſtinguiſhable: Inſomuch as the Tranſaction is impos'd on faithleſs *Miniſters*, under advantage of their ſecret *Lucre*, and paſſeth

paſſeth only under Circumſpection of unskilful *Managers*; So that the Edifice erected, will frequently in value not extend to half the Expence of the *undertaking*, *which* uſually for ſuch Conſideration only hath really for Object but *Neceſſity* or *Pleaſure*; though the allowance of our ſlight *Materials* hath lately muco encouraged Adventurers to frame the Practice on a Publique *Commerce*.

In Oppoſition therefore to the Impediments, that might detain a Private undertaker to perſue ſo material an inherent to a common Intereſt; It were requiſite the *Civil* Power ſhould promote the *undertaking*; Secure the *Truſt*, or regulate the *Circumſpection* of ſuch *Fabriques*, might viſibly conduce to the Advantage of the *Civil* welfare; not that every *ſtructure* can pretend to ſuch a priviledge; though poſſibly erected on thoſe parts are moſt conſiderable. Since each *Receipt* of *Commerce* muſt have his due Proportion with the *whole*. As the *whole* ſhould with the *Parts* to forme a true Agreement in a *Civil* Harmony.

The *undertaking* may plauſibly be promoted in ſuch Immunities as the *Civil* Power ſhall hold, or proper or expedient to the *Place*; whether by Inſtitution of *Markets*, *Marts*, or *Fairs*, or other Publique Convention of *Commerce*. Allowance of *Materials*; Abatements of *Impoſt* or *Taxes*; Grants of *Aſſociation*; Priviledge of *Judicature*, Rights of Communage; Remiſſion of *Penalties*, and the like.

The *Truſt* may be uſefully ſecured in a general Inhibition of Improper and Imperfect *Materials*, *Tasks* impoſed, and *Rates* eſtabliſhed, under Reſtriction of a Penal Ordinance.

The *Circumſpection* may effectually be alſo regulated, under Direction and Allowance of Authentique *Architects* tranſigned to a Common *Miniſtry*, with ſuch Rights of *Salary*, and *Reparation* of Defaults, as may be needful to engage *Them* to an equal Procedure in reference to their Charge.

LII. *Manure.*

THe ſources of our *natural* Exiſtence being immediately derived from the Production of the Earth; and on the *Natural* the *Civil* Frame erected, whoſe Order ſoly is compos'd but to communicate that Affluence in a mutual *Commerce* to the due ſupport of the General *union*, will lead us to collect from the concluſion, how neceſſary the *Civil* Circumſpection may be held to the Advancement of the *Soils Fertility*, Not only in Interdicting uſeleſs and Improper *Managing*; but in exacting of each one a competent *Improvement* of his *Property* to a *Common* Benefit.

Defects

Defects of *Manage* taken generally, may either be conſidered, as *Voluntary* or *Caſual*.

The *Voluntary*, intimating a ſtupid, ſlothful, or extravagant Neglect, may poſſibly be corrected in a due Remonſtrance or Advertiſement; which reaching not effectually the Intention of the Procedure, may properly extend unto *Amercement*, *Fine*, or publique *Mulct*. That not ſucceeding alſo, may proceed to the ſuſpenſion of the *Property* to Anothers uſe, under the ſame Advantage to the Owner, as he had formerly contracted from his Induſtry. Such were the happy Conſtitutions of thoſe primitive *Societies*, who placed their Felicity within the Limits of their proper boſome, without Dependence on a Foreign *Miniſtry*.

From the *Two* former *Diſtinctions* may alſo be derived thoſe *Defects* which iſſue from the *Impotence* or *Avarice* of the *Managers*; ſince they may ſometime meet a complication in their Nature. An *Impotence* may poſſibly proceed from a *voluntary* Tranſaction; where the unadviſed undertaker ſhall pretend to manage more then his Capacity can reach; or otherwiſe may iſſue from a *caſual* Adventure, where the Impropriety of the *Seaſon*, or other Accident deprives him of the Faculty to make a due *Improvement* of his Induſtry. The Preſumption of the *Former* Intimation may juſtly counterpoiſe a Penalty equal to his Folly; The miſcarriage of the *Latter* will properly exact a more Indulgent *Miniſtry*.

Defects ariſe from *Avarice* muſt of Neceſſity encounter a *voluntary* Motive in the undertaker, though the Proceding often meet a *Caſual* Impropriety to the Intention, either in the *Frequency* or *Omiſſion* of *Culture*. Or in *Converſion* of the *Soil* to waſtful and deſtructive uſes.

The *Frequency* of *Culture* may without Colour of Objection, not only exhauſt the *Pregnance* of the *Soil*, but change the very Nature of *her Faculty*, forming it unapt for her ſpecifique *Seed*. And rendring *it* far more ſuſceptable to harmful and ſuperfluous *Excreſcences*. Nor can it be allowable in a *Civil* Practice, that *Avarice* or Malice ſhould ſo far oppreſs the *Natural* Frame to ſatisfie, in Preſent an inordinate Deſire, to leave *Her* Boſom ſterile in the future, to a common Prejudice; in which reſpect, 'tis probable, the Earth held formerly *her Sabbaths* by the Injunction of a Sacred Ordinance.

Omiſſion of *Culture* may ſometime poſſibly extend to other Inconvenients, where the Exterior ſuperfice of the *Earth*, in ſuch Default, becometh, *Cruſty*, *Moſſie* or unapt for Paſturage Impediments, not ſeldom incident to the wood-land Soils.

Converſion of Soyl hath met a more licencious Practice, in our Latter Age, under the Favor of a Private Intereſt, where

the Advantage of a Petty-Royalty ſhall claim a Priviledge to encloſe his Arrable to render it more proper for Paſturage or Meadow, to the Extruſion of the greater Part of the Inhabitants for want of Subject to improve their Induſtry, or yet ſupport their Families. How far the general ſuffrage may be held agreeing to a *Common welfare*, may clearly be diſcovered in Reflection of the unequal Numbers are ſuſtained by *eithers* Miniſtry.

The uſage of the *Soil* may alſo farther be converted to a *Common* Prejudice, and yet retain the former Nature of *her Culture*, where the Plantation in Perſuit of gain, becomes forthwith impair'd for many years, as may appear in the *Recult* of *Rape*, *Oad*, *&c.*

Under a farther Notion of *Default* in our *Manure* may alſo be inſerted Rights of *Communage*, where under *Publique* ſuffrage incompetent extents of Land lie waſted in a general Neglect, ſhadowed with no other viſible Pretence, then but the Aſſiſtance of the *Indigent*, who have not a Capacity to make Advantage of the Priviledge; either in *Proviſion* of *Stock* or *Proviſion* for *Stock*. Whoſe Winters Suſtenance doth uſually ſurpaſs the Summer Benefit, which is nigh ſpent e're *Cattle* can recruit their Winters Poverty. If *they* eſcape thoſe *Caſualties* too frequently are incident to the condition of neglected *Soils*, procuring oftentimes a general *Rott*, which ſooner is advanced by the flattery of a forward Spring, if urged by a high neceſſity to a more haſty entry on the uſe. Nor can the *Opulent* endued with Capacity to ſhun *Theſe* Inconvenients reap the true benefit of ſuch *Precincts*, to the tenth part of what the value *Thereof* might extend unto, in a more regular Appropriation.

LIII. *Private Commerce.*

THe Nature of our preſent *Subject* taken generally might probably exact a vaſter Latitude in Diſcuſſion, then properly can agree with the due *Structure* of our *Treatiſe*. Since every *Property* that is communicable, may poſſibly fall under ſuch *Diſtinction*. But general *Inherents* to a *Civil* uſage more uſually reſigned to a *Publick* Tranſaction, we only will direct our courſe to one peculiar Object, may Univerſally, though Privately lend Life and Motion to the *Reſt* in a perpetual Circulation.

The Quality of the *Object* thus ſet forth, will eaſily conduct us to a clear Diſtinction of *Her* Nature, without enlargement on Particulars. No other *Species* of Materials reaching ſo high an *Attribute*; but *Money*, the common Aliment to a *Civil*

vil Commerce. How this peculiar *Faculty* ſhould be diſtributed from the Original to the remoteſt veſſels, without *Obſtruction* or *Privation*, ſhall reach the Intention of our preſent Agitation. In the *Privation* of the *Faculty*, the *Parts* muſt Languiſh or Conſume away. In the *Obſtruction*, the *whole* Frame muſt ſuffer a Diſtemper to a general Grievance; ſo that in Reference either to the Intereſt of *Particulars*, or the Advantage of a *general* uſe. It will be neceſſary This *Civil* Aliment ſhould be diſpenſed univerſally, without Impediment, in a perpetual conflux by an alternate viciſitude of a mutual Agitation.

The Extent of our *Propoſition* thus enlightned, will require a different oppoſition in Reference to diſtinct Impediments. *Obſtruction* meets a proper Remedy in a timely *Iſſue*. *Privation* in a competent *ſupply*. Not that in *Reference* to the *former Subject* every *reſerve* of ſtore lies uſeleſs in a *Private* Cuſtody, may reach to ſuch *Diſtinction*. *Private* Receipts may without *Publique* Prejudice be licens'd a *Proviſion* againſt ſundry *Accidents*, beyond a due *ſupply* to an apparent *Charge*, provided, neither do in quantity extend a certain revolution of *Returns*. Or that in Reference to the *Latter*, every *Indigence* in a *Civil* Faculty, may properly exact ſo high an Inference, falls under Regulation of our preſent *Subject*, without Dependence on a *Civil Commerce*. To reach a regular *Inſtitution* therefore proper to each *uſe*; we muſt erect equivalent *Receipts*, through which, the *common* Affluence continually deborded, may ſeas'nably return to their Original, with Surety and Advantage; as alſo ſuch *Diſpenſatories*, as timely may recruit exhauſted *Faculties*.

Receipts directed to a *General* uſe, muſt (in Reference to *ſecurity*) equivalently be Ballanc'd with a *General* Capacity. *Particulars* will prove no competent *undertakers* to ſupport ſo high an Enterprize, either as *Adventurers* to *the* proper Intereſt, or Agitators to *Anothers* collateral to their own; a proof *Hereof* may viſibly be collected from the undertaking of *Societies*, in *Commerce*, admit of General *Aſſociates* in adventure to a *Common Traffique*. Where the Supream and Subtle *Managers*, on whoſe Direction, Skill and Circumſpection the work is carried on, contract the Real Benefit to Themſelves, caſting the Charge and Caſualty on the account of unadviſed, Ignorant and borrowed *Contributors*, to the Conſumption of the *Principle* depoſed to their *Truſt*; Whereas the *Adventure* and *Advantages* thereby acquired, engrafted only on a *Publick ſtock*. Particular Adherents but relying on the Profits of a Private *Loan*, might without Caſualty or Trouble keep their Accumulations in a conſtant Agitation to the *Improvement* of their *Civil* Faculties, and the Conſiſtence of a *Publique* Treaſury or Bank, for the ſupply of *Publique* exigents.

In

In Oppoſition to the Inſtitution may poſſibly be alledg'd a *common* Prejudice, might probably thence ariſe to the Obſtruction of a *Publick Trade*, conſiſting in Tranſaction but of *private Mannagers*, ſince few or none, under what Relation ſoever, will ſtand the hazzard of their *property*, in Reference to a *private* Intereſt, who may with equal Benefit run no Caſualty, to the Advantage of the *Publick Welfare*: So that *particulars* muſt thereby of neceſſity be reduced to confine the enlargement of their *Commerce* within the limits of their *ſingle property*, which otherwayes *improved* by employment of *Anothers*, might anſwer others Intereſt, and congeſt a more conſiderable Affluence to the *publick* Good.

In anſwer to the *Objection*, we reply, the Advantage of the Procedure, too frequently proves fatal to all the foreſaid Intereſts united, or divided; ſince, univerſally the inſatiate thirſt of Lucre prompts inconſiderately the Avid will to graſp at more then it can regulate, to become ſudden Wealthy, engaging unadviſed undertaker to oppoſe one Difficulty and danger to another, in ſupport of that *Credit*, lent affluence to their Agitation, beyond their proper *Faculty*, to a prodigious expence in the mannaging; which over-ballancing all Poſſibility of Hope, inevitably o're-whelm the *Principles*, on whom the *private* Intereſt, and the *publick*, both pretended an Eſtabliſhment: whereas the *Agitation* gently ſliding in the Limits only of their proper currant, produce more certainly a *General* Fertility.

Diſpenſatories directed to the Advancement of a *Private Commerce*, having peculiarly for *Object*, a *Relief*, require a more Indulgent *Miniſtry* to their Inſtitution, It is not conſonant to the order of a *Civil* Inherence to exact of the Indigent the uttermoſt of what the *Law* permits; much more improper in a *Civil* Rule to leave the Exigents of the neceſſitous a common prey to Avarice, beyond the tenor of *Her* Ordinance. In which Reſpect we will reflect upon the quality of ſuch *Commerciants*, whoſe languiſhing condition may require a ſupport from this *Inſtitution*. The Nature of their *Attribute* may properly imply ſuch Perſons as extract the means of their exiſtence from an Intercourſe of *Trade*. To which *Diſtinction*, though *Publick* Tranſaction more properly may agree, a *Subject* not inherent to our preſent *Agitation*, extending only to a *Private Commerce*: Yet taken only with a Reference to their prefigured Incapacity, which lends them to a *Publick Commerce*, but a ſubordinate *Miniſtry*: We may inſiſt thereon without Conjecture of an Impropriety.

Of this ſort of obſcure *Subordinates* in *Commerce*, a vaſt Diverſity might poſſibly be inſtanced; which we, in order to our propoſition, will reduce to theſe Diſtinctions, *Aſſociates* and *Independents*.

Aſſo-

Associates imply such, as for *Object* of their *Industry*, have a specifique *matter* to insist upon, inherent to the *Ministry* of some distinct *Society*, on which they do depend.

Independents have no distinct Adherence to *Community*, in Function, nor yet peculiar *Object* of *Return*, but generally pursue all *Subjects* that are vendible to the Advantage of their *Private Interest*: so that their differing Agitation may properly require a distinct succour to their undertakings.

Associates having in their *Function* a Relation to a *Commulty*, may properly repair to their *Provision*, to entertain their *Faculties* in their specifique *Ministry*: Either deputing *Money* or *Materials* to their *Trust*; and taking weekly the return of their peculiar Industry in such Commodities, as are inherent to their Occupation, at such a rate, as might in time endue them with Capacity to become single *Managers* of their proper *Function*.

The Nature of the *Institution* may probably meet some Difficulty, either in Reference to the Facility of the Remedy, without such Appropriation, since no one can so suddenly fall from the Practice of his Faculty, as not to lend so small an entertainment to his Industry. Or in Relation to the Incumbrance of a General *Trade*, since the *Society* might thereby possibly attract more on their Hands, then they could without Damage issue.

To take away the scruple of the first *Assertion*, we may imply the urgency of a quick return, to those have not Capacity to wait the season proper to Advantages, who forced to put off their *Goods* at any rate, both for the support of their present livelihood, and the supply of such *Materials*, should lend new Affluence to their Commerce, fall by degrees to a Cessation in their *Faculty*, and totally become a prey to those can first engross their *Properties*, or otherways prevail on their Necessities.

To shun the inconvenient of the *Limit* Intimation, may be inferr'd the order of our *Institution*; which reaching either to a general *Distribution* of the *Property* to every part of the *Society*, in full Capacity to agitate alone, equivalent to the Transaction of each Particular; the issue thereof would be burdensome to none: or otherwise, received on a general account, might be reserved for a common store to issue in a Foreign Traffique.

Independents pursuing not so material a *Ministry* in the *Civil* Texture, can properly not require so singular a Priviledge of succour, in that they cannot be reduced by distinct Authority to make a mutual Retribution of the common Benefit received, when they fall under a Capacity to make an equal Reparation to anothers Indigence; in which Respect, we must remit their aid to a more common *Ministry*, which cannot be more plausibly effected to a general use, then under the allowance of a Common

Lumbard so Constituted under Regulation of the *Civil* Power, that the Return of Profit not extend the due Proportion of a Legal Interest, more then some small Allowance for subscription. In opposition to so strict Restraint of Benefit, may possibly be alledg'd the *Casualty of Goods*. And *Charge* of the *Attendants* on *Receipt*.

To ballance the full consequence of the former *Objection*, we may infer a due proportion in the *Loan*, in Reference to such *Casualty*.

In compensation to the *Latter*, the weight of the subscription, and the advantage of an unredemption; which rightly ordered by Authentick Consultation, will silence any scruple may be incident to the Propriety of the *Institution*. Which, concluding our present *Subject*, puts a closure to the *First Part* of our General *Treatise*, enfolding all those *Principles* which properly are inherent to the *National* or *Interior Object* of our *Minister*. The *Latter Part* designed to disclose the *Forreign* or *Exterior Object* of our *Minister*, we must remit to treat on, till the *Serenity* of a milder *Fate* shall calm the Agitation of a troubled minde; and the Indulgence of the Hand, to which *This* is directed, shall lend *That* Influence.

ERRATA.

P14.l.21. for Consultation, read *Constitution*; p.20.l.9. for Prudence, r *Discretion*; p.22.l.4. for precipitater, r. *precipitate*; p.24. l.8. for them, r. *him*; p.25. l.14. for or, r. *on*; p.30.l.7. for enfolding, r. *unfolding*; p.34.l 15. for blank, r. *Carthaginians*; p.38.l.25. for places, r. *plac'd*; p.49.l.40. for heres, r. *hereto*; p.50.l.19. for an, r. *and*; p.58.l.5. for others, r. *others*; p.60.l.22. for to our obvious, r. *obvious to our*; p.65. l.30. for daughter, r. *daughters*; p.73.l.8. for his, r. *this*; p.75.l.19. for if encounter, r. *encounters*; p.74.l.43. for Potentia, r. *Patientia*; p.76.l.15. r. *attribute*. p.82.l.2. *dele* w. p.id.l.10.w.r. p.86.l.28. *dele* el. p.96.l.ult. *dele* to; p.96.l.40. r. *is it*; p.98.r. *improvable*; l.39. for yeild the, r. *yeild to the*; p.123. l.45. for be, r. *the*; p.135.l. 39. for Borrow, r. *Burrough*; p.136.l.8. for serv'd, r. *secur'd*; p.139.l.42. r. *position*; p.150.l. 17. for is one, r. *is in one*; p.152.l.6. r. *Monoyres*; p.153.l.33. for extension, r. *extraction*; p.156 l.33. for Ascension, r. *assertion*; p.168.l.ult. for Imposition, r. *Inquisition*; p.185.l.30. for faculty, r. *faculty*; l.35. for becomes, r. *become*; p.188.l.39. for a, r. *at*; p.192.l.6. for much, r. *much*; p.196.l.18. for undertaker, r. *undertakers*.

FINIS.